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CHANGES MADE BY H.R. 4848 (P.L. 100-418) IN PRE-EXISTING LAWS UNDER FINANCE COMMITTEE JURISDICTION

Prepared by the Staff for the Use of the

COMMITTEE ON FINANCE
UNITED STATES SENATE

LLOYD BENTSEN, *Chairman*

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INTRODUCTION

This document shows the changes in pre-existing laws under the jurisdiction of the Committee on Finance that were made by the bill H.R. 4848 (P.L. 100–418), the "Omnibus Trade and Competitiveness Act of 1988." It was prepared by the Staff of the Committee on Finance in order to assist the Committee in its oversight of the trade laws during the 101st Congress. The purpose of the document is to provide a clear comparison between the trade laws as they existed immediately prior to the enactment of H.R. 4848 and the trade laws as they exist today.

Changes in existing laws made by H.R. 4848 (P.L. 100–418), as passed, are shown as follows: existing law that was omitted is enclosed in black brackets; new matter is printed in italic; existing law in which no change was made is shown in roman.

TARIFF ACT OF 1930, AS AMENDED

* * * * * * *

TITLE VII—COUNTERVAILING AND ANTIDUMPING DUTIES

* * * * * * *

Sec. 739. Establishment of product categories for short life cycle merchandise.

* * * * * * *

Subtitle D—General Provisions

Sec. 771B. Calculation of subsidies on certain processed agricultural products.

* * * * * * *

Sec. 779. [Drawbacks.] *Drawback treatment.*
Sec. 780. Downstream product monitoring.
Sec. 781. Prevention of circumvention of antidumping and countervailing duty orders.

* * * * * * *

[TITLE I—TARIFF SCHEDULES OF THE UNITED STATES]

Title I—Harmonized Tariff Schedule of the United States

* * * * * * *

SEC. 304. MARKING OF IMPORTED ARTICLES AND CONTAINERS.

(a) * * *

* * * * * * *

[(h) PENALTIES.—If any person shall, with intent to conceal the information given thereby or contained therein, deface, destroy, remove, alter, cover, obscure, or obliterate any mark required under the provisions of this Act, he shall, upon conviction, be fined not more than $5,000 or imprisoned not more than one year, or both.]

(h) PENALTIES.—Any person who, with intent to conceal the information given thereby or contained therein, defaces, destroys, removes, alters, covers, obscures, or obliterates any mark required under the provisions of this Act shall—

(1) upon conviction for the first violation of this subsection, be fined not more than $100,000, or imprisoned for not more than 1 year, or both; and

(2) upon conviction for the second or any subsequent violation of this subsection, be fined not more than $250,000, or imprisoned for not more than 1 year, or both.

SEC. 305. IMMORAL ARTICLES—IMPORTATION PROHIBITED.

(a) PROHIBITION OF IMPORTATION.—All persons are prohibited from importing into the United States from any foreign country any book, pamphlet, paper, writing, advertisement, circular, print, picture, or drawing containing any matter advocating or urging treason or insurrection against the United States, or forcible resistance to any law of the United States, or containing any threat to take the office of or inflict bodily harm upon any person in the United States, or any obscene book, pamphlet, paper, writing, advertisement, circular, print, picture, drawing, or other representation, figure, or image on or of paper or other material, or any cast, instrument or other article which is obscene or immoral, or any drug or medicine or any article whatever for causing unlawful abortion, or any lottery ticket, or any printed paper that may be used as a lottery ticket, or any advertisement of any lottery. No such articles, whether imported separately or contained in packages with other goods entitled to entry, shall be admitted to entry; and all such articles and, unless it appears to the satisfaction of the appropriate customs officer that the obscene or other prohibited articles contained in the package were inclosed therein without the knowledge or consent of the importer, owner, agent, or consignee, the entire contents of the package in which such articles are contained, shall be subject to seizure and forfeiture as hereinafter provided: *Provided,* That the drugs hereinbefore mentioned, when imported in bulk and not put up for any of the purposes hereinbefore specified, are excepted from the operation of this subdivision; *Provided further,* That the Secretary of the Treasury may, in his discretion, admit the so-called classics or books of recognized and established literary or scientific merit, but may, in his discretion, admit such classics or books only when imported for noncommercial purposes.

(b) Enforcement Procedures.—Upon the appearance of any such book or matter at any customs office, the same shall be seized and held by the appropriate customs officer to await the judgment of the district court as hereinafter provided; and no protest shall be taken to the United States Court of International Trade from the decision of such customs officer. **[**Upon the seizure of such book or matter such customs officer shall transmit information thereof to the district attorney of the district in which is situated the office at which such seizure has taken place, who shall institute proceedings in the district court for the forfeiture, confiscation, and destruction of the book or matter seized.**]** *Upon the seizure of such book or matter, such customs officer shall transmit information thereof to the United States attorney of the district in which is situated either—*

(1) the office at which such seizure took place; or

(2) the place to which such book or matter is addressed;

and the United States attorney shall institute proceedings in the district court for the forfeiture, confiscation, and destruction of the book or matter seized.

(c) Notwithstanding the provisions of subsections (a) and (b), whenever a customs officer discovers any obscene material after such material has been imported or brought into the United States, or attempted to be imported or brought into the United States, he may refer the matter to the United States attorney for the institution of forfeiture proceedings under this section. Such proceedings shall begin no more than 30 days after the time the material is seized; except that no seizure or forfeiture shall be invalidated for delay if the claimant is responsible for extending the action beyond

the allowable time limits or if proceedings are postponed pending the consideration of constitutional issues.

(d) Upon motion of the United States, a court shall stay such civil forfeiture proceedings commenced under this section pending the completion of any related criminal matter.

* * * * * * *

SEC. 312. BONDED SMELTING AND REFINING WAREHOUSES.

(a) * * *

* * * * * * *

(f) For purposes of this section—

(1) the term "metal-bearing materials" means metal-bearing ores and other metal-bearing materials provided for in [schedule 6, part 1, of the Tariff Schedule of the United States,] *chapter 26 of the Harmonized Tariff Schedule of the United States,* [“]metal waste and scrap[”] and [“]unwrought metal[”] to be smelted or refined provided for in [schedule 6, part 2, of such schedules,] *chapters 71 through 83 of the Harmonized Tariff Schedule of the United States,* and metal compounds to be processed for the recovery of their metal content;

(2) the term "smelting or refining" embraces only pyrometallurgical, hydrometallurgical, electrometallurgical, chemical, or other processes—

(A) for the treatment of metal-bearing materials to reduce the metal content thereof to a metallic state in the course of recovering it in forms which if imported would be classifiable in [part 2 of schedule 6] *chapters 71 through 83 of the Harmonized Tariff Schedule of the United States* as [“]unwrought metal[”], or in the form of oxides or other compounds which are obtained directly from the treatment of materials provided for in [part 1 of schedule 6] *chapter 26 of the Harmonized Tariff Schedule of the United States,* and

* * * * * * *

(3) the term "product of smelting or refining" means metals or metal-bearing materials resulting directly from smelting or refining processes, but does not include metal-bearing ores [as defined in part 1 of schedule 6] *of chapter 26 of the Harmonized Tariff Schedule of the United States.*

* * * * * * *

SEC. 315. EFFECTIVE DATE OF RATES OF DUTY.

(a) * * *

* * * * * * *

(d) No administrative ruling resulting in the imposition of a higher rate of duty or charge than the Secretary of the Treasury shall find to have been applicable to imported merchandise under an established and uniform practice shall be effective with respect to articles entered for consumption or withdrawn from warehouse for consumption prior to the expiration of thirty days after the date of publication in the Federal Register of notice of such ruling; but this provision shall not apply with respect to the imposition of anti-dumping duties or the imposition of countervailing duties under section 1303 of this title. *This subsection shall not apply with respect to increases in rates of duty resulting from the enactment of the Harmonized Tariff Schedule of the United States to replace the Tariff Schedules of the United States.*

* * * * * * *

SEC. 321. ADMINISTRATIVE EXEMPTIONS.

(a) * * *

* * * * * * *

(2) admit articles free of duty and of any tax imposed on or by reason of importation, but the aggregate fair retail value in the country of shipment of articles imported by one person on one day and exempted from the payment of duty shall not exceed—

* * * * * * *

(B) $25 in the case of articles accompanying, and for the personal or household use of, persons arriving in the United States who are not entitled to any exemption from duty under [item 812.25 or 813.31] *subheading 9804.00.30 or 9804.00.70* of section 1202 of this title, or

* * * * * * *

SEC. 330. ORGANIZATION OF COMMISSION.

(a) * * *

* * * * * * *

(c) Chairman and Vice Chairman; Quorum.—(1) * * *

* * * * * * *

(3)(A) The President may not designate as the chairman of the Commission for any term—

(i) either of the two Commissioners [most recently appointed to] *with the shortest period of service on* the Commission as of the beginning date of the term of office for which the designation of chairman is to be made; or

* * * * * * *

(d) Effect of Divided Vote in Certain Cases.—(1) In a proceeding in which the Commission is required to determine—

(A) under section [201] *202* of the Trade Act of 1974, whether increased imports of an article are a substantial cause of serious injury, or the threat thereof, as described in subsection (b)(1) of that section (hereafter in this subsection referred to as "serious injury"), or

(B) under section 406 of such Act, whether market disruption exists,

and the Commissioners voting are equally divided with respect to such determination, then the determination agreed upon by either group of Commissioners may be considered by the President as the determination of the Commission.

(2) If under section [201] *202(b)* or 406 of the Trade Act of 1974 there is an affirmative determination of the Commission, or a determination of the Commission which the President may consider

an affirmative determination under paragraph (1), that serious injury or market disruption exists, respectively, and a majority of the commissioners voting are unable to agree on a finding or recommendation described in section [201(d)(1)] *202(e)(1)* of such Act or the finding described in section 406(a)(3) of such Act, as the case may be (hereafter in this subsection referred to as a "remedy finding"), then—

(A) if a plurality of not less than three Commissioners so voting agree on a remedy finding, such remedy finding shall, for purposes of [sections 202 and 203] *section 203* of such Act, be treated as the remedy finding of the Commission, or

(B) if two groups, both of which include not less than 3 Commissioners, each agree upon a remedy finding and the President reports under section [203(b)] *204(a)* of such Act that—

(i) he is taking the action agreed upon by one such group, then the remedy finding agreed upon by the other group shall, for purposes of [sections 202 and 203] *section 203* of such Act, be treated as the remedy finding of the Commission, or

(ii) he is taking action which differs from the action agreed upon by both such groups, or that he will not take any action, then the remedy finding agreed upon by either such group may be considered by the Congress as the remedy finding of the Commission and shall, for purposes of [sections 202 and 203] *section 203* of such Act, be treated as the remedy finding of the Commission.

* * * * * * *

(4) In a case to which paragraph (2)(B)(ii) applies, for purposes of section [203(c)(1)] *203(a)* of the Trade Act of 1974, notwithstanding section 152(a)(1)(A) of such Act, the second blank space in the concurrent resolution described in such section 152 shall be filled with the appropriate date and the following: "The action which shall take effect under section 203(c)(1) of the Trade Act of 1974 is the finding or recommendation agreed upon by Commissioners ————, ————, and ————." The three blank spaces shall be filled with the names of the appropriate Commissioners.

* * * * * * *

(f) The Commission shall be considered to be an independent regulatory agency for purposes of chapter 35 of title 44, United States Code.

* * * * * * *

SEC. 332. INVESTIGATIONS.

(a) * * *

* * * * * * *

(g) REPORTS TO PRESIDENT AND CONGRESS.—The Commission shall put at the disposal of the President of the United States, the Committee on Ways and Means of the House of Representatives, and the Committee on Finance of the Senate, whenever requested, all information at its command, and shall make such investigations and reports as may be requested by the President or by either of said committees or by either branch of the Congress[, and shall report to Congress]. *However, the Commission may not release information which the Commission considers to be confidential business information unless the party submitting the confidential business information had notice, at the time of submission, that such information would be released by the Commission, or such party subsequently consents to the release of the information. The Commission shall report to Congress* on the first Monday of December of each year hereafter a statement of the methods adopted and all expenses incurred, a summary of all reports made during the year, and a list of all votes taken by the Commission during the year, showing those Commissioners voting in the affirmative and the negative on each vote and those Commissioners not voting on each vote and the reasons for not voting. Each such annual report shall include a list of all complaints filed under section 337 during the year for which such report is being made, the date on which each such complaint was filed, and the action taken thereon, and the status of all investigations conducted by the Commission under such section during each such year and the date on which each such investigation was commenced.

* * * * * * *

SEC. 337. UNFAIR PRACTICES IN IMPORT TRADE.

[(a) Unfair Methods of Competition Declared Unlawful.—Unfair methods of competition and unfair acts in the importation of articles into the United States, or in their sale by the owner, importer, consignee, or agent of either, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States, or to prevent the establishment of such an industry, or to restrain or monopolize trade and commerce in the United States, are declared unlawful, and when found by the Commission to exist shall be dealt with, in addition to any other provisions of law, as provided in this section.]

(a)(1) Subject to paragraph (2), the following are unlawful, and when found by the Commission to exist shall be dealt with, in addition to any other provision of law, as provided in this section:

(A) Unfair methods of competition and unfair acts in the importation of articles (other than articles provided for in subparagraphs (B), (C), and (D)) into the United States, or in the sale of such articles by the owner, importer, or consignee, the threat or effect of which is—

(i) to destroy or substantially injure an industry in the United States;

(ii) to prevent the establishment of such an industry; or

(iii) to restrain or monopolize trade and commerce in the United States.

(B) The importation into the United States, the sale for importation, or the sale within the United States after importation by the owner, importer, or consignee, of articles that—

(i) infringe a valid and enforceable United States patent or a valid and enforceable United States copyright registered under title 17, United States Code; or

(ii) are made, produced, processed, or mined under, or by means of, a process covered by the claims of a valid and enforceable United States patent.

(C) The importation into the United States, the sale for importation, or the sale within the United States after importation by the owner, importer, or consignee, of articles that infringe a valid and enforceable United States trademark registered under the Trademark Act of 1946.

(D) The importation into the United States, the sale for importation, or the sale within the United States after importation by the owner, importer, or consignee, of a semiconductor chip product in a manner that constitutes infringement of a mask work registered under chapter 9 of title 17, United States Code.

(2) Subparagraphs (B), (C), and (D) of paragraph (1) apply only if an industry in the United States, relating to the articles protected by the patent, copyright, trademark, or mask work concerned, exists or is in the process of being established.

(3) For purposes of paragraph (2), an industry in the United States shall be considered to exist if there is in the United States, with respect to the articles protected by the patent, copyright, trademark, or mask work concerned—

(A) significant investment in plant and equipment;

(B) significant employment of labor or capital; or

(C) substantial investment in its exploitation, including engineering, research and development, or licensing.

(4) For the purposes of this section, the phrase "owner, importer, or consignee" includes any agent of the owner, importer, or consignee.

(b)(1) * * *

* * * * * * *

(2) During the course of each investigation under this section, the Commission shall consult with, and seek advice and information from, the [Department of Health, Education, and Welfare], *Department of Health and Human Services,* the Department of Justice, the Federal Trade Commission, and such other departments and agencies as it considers appropriate.

(3) Whenever, in the course of an investigation under this section, the Commission has reason to believe, based on information before it, that a matter, in whole or in part, may come within the purview of section 1303 of this title or of part II of subtitle IV of this chapter, it shall promptly notify the [Secretary of the Treasury] *Secretary of Commerce* so that such action may be taken as is otherwise authorized by such section and such Act.

(c) DETERMINATION; REVIEW.—The Commission shall determine, with respect to each investigation conducted by it under this section whether or not there is a violation of this section, *except that the Commission may, by issuing a consent order or on the basis of a settlement agreement, terminate any such investigation, in whole or in part, without making such a determination.* Each determination under subsection (d) or (e) shall be made on the record after notice and opportunity for a hearing in conformity with the provisions of subchapter II of chapter 5 of title 5, United States Code. All legal and equitable defenses may be presented in all cases. Any person adversely affected by a final determination of the Commission under subsection (d), (e), [or (f)] *(f), or (g),* may appeal such determination within 60 days after the determination becomes final, to the United States Court of Appeals for the Federal Circuit for review in accordance with chapter 7 of title 5, United States Code. Notwithstanding the foregoing provisions of this subsection, Commission determinations under subsections (d), (e), [and (f)] *(f), and (g)* with respect to its findings on the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, the amount and nature of bond, or the appropriate remedy shall be reviewable in accordance with section 706 of title, 5, United States Code.

* * * * * * *

(e) EXCLUSION OF ARTICLES FROM ENTRY DURING INVESTIGATION EXCEPT UNDER BOND.—*(1)* If, during the course of an investigation under this section, the Commission determines that there is a reason to believe that there is a violation of this section, it may direct that the articles concerned, imported by any person with respect to whom there is reason to believe that such person is violating this section, be excluded from the entry into the United States, unless, after considering the effect of such exclusion upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, it finds that such articles should not be excluded from entry. The Commission shall notify the Secretary of the Treasury of its action under this subsection directing such exclusion from entry, and upon receipt of such notice, the Secretary shall, through the proper officers, refuse such entry, except that such articles shall be entitled to entry under bond determined by the Commission and prescribed by the Secretary.

(2) A complainant may petition the Commission for the issuance of an order under this subsection. The Commission shall make a determination with regard to such petition by no later than the 90th day after the date on which the Commission's notice of investigation is published in the Federal Register. The Commission may extend the 90-day period for an additional 60 days in a case it designates as a more complicated case. The Commission shall publish in the Federal Register its reasons why it designated the case as being more complicated. The Commission may require the complainant to post a bond as a prerequisite to the issuance of an order under this subsection.

(3) The Commission may grant preliminary relief under this subsection or subsection (f) to the same extent as preliminary injunctions and temporary restraining orders may be granted under the Federal Rules of Civil Procedure.

(f)(1) [In lieu of] *In addition to, or in lieu of,* taking action under subsection (d) or (e) of this section, the Commission may issue and cause to be served on any person violating this section, or believed to be violating this section, as the case may be, an order directing such person to cease and desist from engaging in the unfair methods or acts involved, unless after considering the effect of such order upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, if finds that such order should not be issued. The Commission may at any time, upon such notice and in such manner as it deems proper, modify or revoke any such order, and, in the case of a revocation, may take action under subsection (d) or (e) of this section, as the case may be.

(2) Any person who violates an order issued by the Commission under paragraph (1) after it has become final shall forfeit and pay to the United States a civil penalty for each day on which an importation of articles, or their sale, occurs in violation of the order of not more than the greater of **[**$10,000 or**]** *$100,000 or twice* the domestic value of the articles entered or sold on such day in violation of the order. Such penalty shall accrue to the United States and may be recovered for the United States in a civil action brought by the Commission in the Federal District Court for the District of Columbia or for the district in which the violation occurs. In such actions, the United States district courts may issue mandatory injunctions incorporating the relief sought by the Commission as they deem appropriate in the enforcement of such final orders of the Commission.

(g)(1) If—

(A) a complaint is filed against a person under this section;

(B) the complaint and a notice of investigation are served on the person;

(C) the person fails to respond to the complaint and notice or otherwise fails to appear to answer the complaint and notice;

(D) the person fails to show good cause why the person should not be found in default; and

(E) the complainant seeks relief limited solely to that person;

the Commission shall presume the facts alleged in the complaint to be true and shall, upon request, issue an exclusion from entry or a cease and desist order, or both, limited to that person unless, after considering the effect of such exclusion or order upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, the Commission finds that such exclusion or order should not be issued.

(2) In addition to the authority of the Commission to issue a general exclusion from entry of articles when a respondent appears to contest an investigation concerning a violation of the provisions of this section, a general exclusion from entry of articles, regardless of the source or importer of the articles, may be issued if—

(A) no person appears to contest an investigation concerning a violation of the provisions of this section, and

(B) such a violation is established by substantial, reliable, and probative evidence.

(h) The Commission may by rule prescribe sanctions for abuse of discovery and abuse of process to the extent authorized by Rule 11 and Rule 37 of the Federal Rules of Civil Procedure.

(i) FORFEITURE.—

(1) In addition to taking action under subsection (d), the Commission may issue an order providing that any article imported in violation of the provisions of this section be seized and forfeited to the United States if—

(A) the owner, importer, or consignee of the article previously attempted to import the article into the United States;

(B) the article was previously denied entry into the United States by reason of an order issued under subsection (d); and

(C) upon such previous denial of entry, the Secretary of the Treasury provided the owner, importer, or consignee of the article written notice of—

(i) such order, and

(ii) the seizure and forfeiture that would result from any further attempt to import the article into the United States.

(2) The Commission shall notify the Secretary of the Treasury of any order issued under this subsection and, upon receipt of such notice, the Secretary of the Treasury shall enforce such order in accordance with the provisions of this section.

(3) Upon the attempted entry of articles subject to an order issued under this subsection, the Secretary of the Treasury shall immediately notify all ports of entry of the attempted importation and shall identify the persons notified under paragraph (1)(C).

(4) The Secretary of the Treasury shall provide—

(A) the written notice described in paragraph (1)(C) to the owner, importer, or consignee of any article that is denied entry into the United States by reason of an order issued under subsection (d); and

(B) a copy of such written notice to the Commission.

[(g)**]** *(j)* REFERRAL TO THE PRESIDENT.—(1) If the Commission determines that there is a violation of this section, or that, for purposes of subsection (e), there is reason to believe that there is such a violation, it shall—

(A) publish such determination in the Federal Register, and

(B) transmit to the President a copy of such determination and the action taken under subsection (d), (e), **[**or**]** (f), *(g), or (i)* with respect thereto, together with the record upon which such determination is based.

(2) If, before the close of the 60-day period beginning on the day after the day on which he receives a copy of such determination, the President, for policy reasons, disapproves such determination and notifies the Commission of his disapproval, then, effective on the date of such notice, such determination and the action taken under subsection (d), (e) **[**or (f)**]** *(f), (g), or (i)* with respect thereto shall have no force or effect.

(3) Subject to the provisions of paragraph (2), such determination shall, except for purposes of subsection (c), be effective upon publication thereof in the Federal Register, and the action taken under subsection (d), (e), **[**or (f)**]** *(f), (g), or (i)* with respect thereto shall be effective as provided in such subsections, except that articles directed to be excluded from entry under subsection (d) or subject to a

cease and desist order under subsection (f) shall be entitled to entry under bond determined by the Commission and prescribed by the Secretary until such determination becomes final.

* * * * * * *

[(h)**]** *(k)* PERIOD OF EFFECTIVENESS.—*(1)* Except as provided in subsection (f) and **[**(g),**]** *(j)*, any exclusion from entry or order under this section shall continue in effect until the Commission finds, and in the case of exclusion from entry notifies the Secretary of the Treasury, that the conditions which led to such exclusion from entry or order no longer exist.

(2) If any person who has previously been found by the Commission to be in violation of this section petitions the Commission for a determination that the petitioner is no longer in violation of this section or for a modification or rescission of an exclusion from entry or order under subsection (d), (e), (f), (g), or (i)—

(A) the burden of proof in any proceeding before the Commission regarding such petition shall be on the petitioner; and

(B) relief may be granted by the Commission with respect to such petition—

(i) on the basis of new evidence or evidence that could not have been presented at the prior proceeding, or

(ii) on grounds which would permit relief from a judgment or order under the Federal Rules of Civil Procedure.

[(i)**]** *(l)* IMPORTATIONS BY OR FOR THE UNITED STATES.—Any exclusion from entry or order under subsection (d), (e), **[**or**]** *(f), (g), or (i)* in cases based on **[**claims of United States letters patent**]** *a proceeding involving a patent, copyright, or mask work under subsection (a)(1)*, shall not apply to any article imported by and for the use of the United States, or imported for, and to be used for, the United States with the authorization or consent of the Government. Whenever any article would have been excluded from entry or would not have been entered pursuant to the provisions of such subsections but for the operation of this subsection, **[**a patent owner**]** *an owner of the patent, copyright, or mask work* adversely affected shall be entitled to reasonable and entire compensation in an action before the United States Claims Court pursuant to the procedures of section 1498 of title 28, United States Code.

[(j)**]** *(m)* DEFINITION OF UNITED STATES.—For purposes of this section and sections 338 and 340, the term "United States" means the customs territory of the United States as defined in **[**general headnote 2 of the Tariff Schedules of the United States**]** *general note 2 of the Harmonized Tariff Schedule of the United States.*

(n)(1) Information submitted to the Commission or exchanged among the parties in connection with proceedings under this section which is properly designated as confidential pursuant to Commission rules may not be disclosed (except under a protective order issued under regulations of the Commission which authorizes limited disclosure of such information) to any person (other than a person described in paragraph (2)) without the consent of the person submitting it.

(2) Notwithstanding the prohibition contained in paragraph (1), information referred to in that paragraph may be disclosed to—

(A) an officer or employee of the Commission who is directly concerned with carrying out the investigation in connection with which the information is submitted,

(B) an officer or employee of the United States Government who is directly involved in the review under subsection (j), or

(C) an officer or employee of the United States Customs Service who is directly involved in administering an exclusion from entry under this section resulting from the investigation in connection with which the information is submitted.

* * * * * * *

SEC. 339. TRADE REMEDY ASSISTANCE OFFICE.

(a) There is established in the Commission [a Trade] *a separate office to be known as the Trade* Remedy Assistance Office which shall provide full information to the public, [upon request, concerning—] *upon request and shall, to the extent feasible, provide assistance and advice to interested parties concerning—*

(1) remedies and benefits available under the trade laws, and

(2) the petition and application procedures, and the appropriate filing dates, with respect to such remedies and benefits.

[(b) Each agency responsible for administering a trade law shall provide technical assistance to eligible small businesses to enable them to prepare and file petitions and applications (other than those which, in the opinion of the agency, are frivolous) to obtain the remedies and benefits that may be available under that law.]

(b) The Trade Remedy Assistance Office, in coordination with each agency responsible for administering a trade law, shall provide technical and legal assistance and advice to eligible small businesses to enable them—

(1) to prepare and file petitions and applications (other than those which, in the opinion of the Office, are frivolous); and

(2) to seek to obtain the remedies and benefits available under the trade laws, including any administrative review or administrative appeal thereunder.

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SEC. 466. EQUIPMENT AND REPAIRS OF VESSELS.

(a) * * *

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(f) The duty imposed under subsection (a) of this section shall not apply to the cost of repair parts, materials, or expenses of repairs in a foreign country upon a United States civil aircraft, within the meaning of [headnote 3 to Schedule 6, part 6, subpart C of the Tariff Schedules of the United States] *general note 3(c)(iv) of the Harmonized Tariff Schedule of the United States.*

* * * * * * *

SEC. 498. ENTRY UNDER REGULATIONS.

(a) * * *

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(1) Merchandise, imported in the mails or otherwise, when the aggregate value of the shipment does not exceed such amount, not

greater than $1,250, as the Secretary of the Treasury shall specify in the regulations, and the specified amount may vary for different classes or kinds of merchandise or different classes of transactions, except that this paragraph does not apply to articles valued in excess of $250 classified in—

[(A) schedule 3,
[(B) parts 1, 4A, 7B, 12A, 12D, and 13B of schedule 7, and
[(C) parts 2 and 3 of the Appendix,]
(A) chapters 50 through 63;
(B) chapters 39 through 43, 61 through 65, 67 and 95; and
(C) subchapters III and IV of chapter 99;

[of the Tariff Schedules of the United States,] *of the Harmonized Tariff Schedule of the United States,* or to any other article for which formal entry is required without regard to value.

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PART III—ASCERTAINMENT, COLLECTION, AND RECOVERY OF DUTIES

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SEC. 507. TARE AND DRAFT.

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[The Secretary] *(a) In General.—The Secretary* of the Treasury is authorized to prescribe and issue regulations for the ascertainment of tare upon imported merchandise, including the establishment of reasonable and just schedule tares therefor, but [in no case shall there be] *(except as otherwise provided in this section) there shall not be* any allowance for draft or for impurities, other than excessive moisture and impurities not usually found in or upon such or similar merchandise.

(b) Crude Oil and Petroleum Products.—In ascertaining tare on imports of crude oil, and on imports of petroleum products, allowance shall be made for all detectable moisture and impurities present in, or upon, the imported crude oil or petroleum products.

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SEC. 516. PETITIONS BY DOMESTIC INTERESTED PARTIES.

(a) Request for Classification and Rate of Duty; Petition.—(1) * * *

* * * * * * *

(3) Any producer of a raw agricultural product who is considered under section 771(4)(E) to be part of the industry producing a processed agricultural product of the same class or kind as the designated imported merchandise shall, for purposes of this section, be treated as an interested party producing such processed agricultural product.

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SEC. 555. BONDED WAREHOUSES.

* * * * * * *

[(b) If a State or local governmental authority, incident to its jurisdiction over any airport, seaport, or other exit point facility, requires that a concession or other form of approval be obtained from that authority with respect to the operation of a duty-free sales enterprise under which merchandise is delivered to such facility for exportation, merchandise incident to such operation may not be withdrawn from a bonded warehouse and transferred to such facility unless the operator of the duty-free sales enterprise demonstrates to the Secretary of the Treasury that the concession or approval required for the enterprise has been obtained. For purposes of this subsection, the term "duty-free sales enterprise" means an entity that sells, in less than wholesale quantities, duty-free or tax-free merchandise that is delivered from a bonded warehouse to an airport, seaport, or point of exit from the United States for exportation by, or on behalf of, individuals departing from the United States.]

(b) Duty-Free Sales Enterprises.—

(1) Duty-free sales enterprises may sell and deliver for export from the customs territory duty-free merchandise in accordance with this subsection and such regulations as the Secretary may prescribe to carry out this subsection.

(2) A duty-free sales enterprise may be located anywhere within—

(A) the same port of entry, as established under section 1 of the Act of August 24, 1912 (37 Stat. 434), from which a purchaser of duty-free merchandise departs the customs territory; or

(B) 25 statute miles from the exit point through which the purchaser of duty-free merchandise will depart the customs territory.

(3) Each duty-free sales enterprise—

(A) shall establish procedures to provide reasonable assurance that duty-free merchandise sold by the enterprise will be exported from the customs territory;

(B) if the duty-free sales enterprise is an airport store, shall establish and enforce, in accordance with such regulations as the Secretary may prescribe, restrictions on the sale of duty-free merchandise to any one individual to personal use quantities;

(C) shall display in prominent places within its place of business notices which state clearly that any duty-free merchandise purchased from the enterprise—

(i) has not been subject to any Federal duty or tax,

(ii) if brought back into the customs territory, must be declared and is subject to Federal duty and tax, and

(iii) is subject to the customs laws and regulation of any foreign country to which it is taken;

(D) shall not be required to mark or otherwise place a distinguishing identifier on individual items of merchandise to indicate that the items were sold by a duty-free sales enterprise, unless the Secretary finds a pattern in which such items are being brought back into the customs territory without declaration;

(E) may unpack merchandise into saleable units after it has been entered for warehouse and placed in a duty-free

sales enterprise, without requirement of further permits; and

(F) shall deliver duty-free merchandise—

(i) in the case of a duty-free sales enterprise that is an airport store—

(I) to the purchaser (or a family member or companion traveling with the purchaser) in an area that is within the airport and to which access to passengers is restricted to those departing from the customs territory;

(II) to the purchaser (or a family member or companion traveling with the purchaser) at the exit point of a specific departing flight;

(III) by placing the merchandise within the aircraft on which the purchaser will depart for carriage as passenger baggage; or

(IV) if the duty-free sales enterprise has made a good faith effort to effect delivery for exportation through one of the methods described in subclause (I), (II), or (III) but is unable to do so, by any other reasonable method to effect delivery; or

(ii) in the case of a duty-free sales enterprise that is a border store—

(I) at a merchandise storage location at or beyond the exit point; or

(II) at any location approved by the Secretary before the date of enactment of the Omnibus Trade Act of 1987.

(4) If a State or local or other governmental authority, incident to its jurisdiction over any airport, seaport, or other exit point facility, requires that a concession or other form of approval be obtained from that authority with respect to the operation of a duty-free sales enterprise under which merchandise is delivered to or through such facility for exportation, merchandise incident to such operation may not be withdrawn from a bonded warehouse and transferred to or through such facility unless the operator of the duty-free sales enterprise demonstrates to the Secretary that the concession or approval required for the enterprise has been obtained.

(5) This subsection does not prohibit a duty-free sales enterprise from offering for sale and delivering to, or on behalf of, individuals departing from the customs territory merchandise other than duty-free merchandise, except that such other merchandise may not be stored in a bonded warehouse facility other than a bonded facility used for retail sales.

(6) Merchandise that is purchased in a duty-free sales enterprise is not eligible for exemption from duty under subpart A of part 2 of schedule 8 of the Tariff Schedules of the United States if such merchandise is brought back to the customs territory.

(7) The Secretary shall by regulation establish a separate class of bonded warehouses for duty-free sales enterprises. Regulations issued to carry out this paragraph shall take into account the unique characteristics of the different types of duty-free sales enterprises.

(8) For purposes of this subsection—

(A) The term "airport store" means a duty-free sales enterprise which delivers merchandise to, or on behalf of, individuals departing from the customs territory from an international airport located within the customs territory.

(B) The term "border store" means a duty-free sales enterprise which delivers merchandise to, or on behalf of, individuals departing from the customs territory through a land or water border by a means of conveyance other than an aircraft.

(C) The term "customs territory" means the customs territory of the United States and foreign trade zones.

(D) The term "duty-free sales enterprise" means a person that sells, for use outside the customs territory, duty-free merchandise that is delivered from a bonded warehouse to an airport or other exit point for exportation by, or on behalf of, individuals departing from the customs territory.

(E) The term "duty-free merchandise" means merchandise sold by a duty-free sales enterprise on which neither Federal duty nor Federal tax has been assessed pending exportation from the customs territory.

(F) The term "exit point" means the area in close proximity to an actual exit for departing from the customs territory, including the gate holding area in the case of an airport, but only if there is reasonable assurance that duty-free merchandise delivered in the gate holding area will be exported from the customs territory.

(G) The term "personal use quantities" means quantities that are only suitable for uses other than resale, and includes reasonable quantities for household or family consumption as well as for gifts to others.

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SEC. 613A. CUSTOMS FORFEITURE FUND.

(a) * * *

* * * * * * *

(iii) the reimbursement, at the discretion of the Secretary, of [private citizens] *private persons* for expenses incurred by them in cooperating with the Customs Service in investigations and undercover law enforcement operations; and

* * * * * * *

(c) There shall be deposited in the fund during the period [beginning on the date of the enactment of this section, and ending on September 30, 1987,] *described in subsection (a) for which the fund is available to the United States Customs Service,* all proceeds from forfeiture under any law enforced or administered by the United States Customs Service (after reimbursement of expenses under section 524 of this Act) and all earnings on amounts invested under subsection (d) of this section.

* * * * * * *

PART V—ENFORCEMENT PROVISIONS

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SEC. 623. BONDS AND OTHER SECURITY.

* * * * * * *

(c) CANCELLATION OF BOND.—The Secretary of the Treasury may authorize the cancellation of any bond provided for in this section, or of any charge that may have been made against such bond, in the event of a breach of any condition of the bond, upon the payment of such lesser amount or penalty or upon such other terms and conditions as he may deem sufficient. *In order to assure uniform, reasonable, and equitable decisions, the Secretary of the Treasury shall publish guidelines establishing standards for setting the terms and conditions for cancellation of bonds or charges thereunder.*

* * * * * * *

TITLE VII—COUNTERVAILING AND ANTIDUMPING DUTIES

Subtitle A—Imposition of Countervailing Duties

SEC. 701. COUNTERVAILING DUTIES IMPOSED.

(a) * * *

* * * * * * *

(c) REVOCATION OF STATUS AS A COUNTRY UNDER THE AGREEMENT.—The United States Trade Representative may revoke the status of a foreign country as a country under the Agreement for purposes of this subtitle if such foreign country—

(1) announces that such foreign country does not intend, or is not able, to honor the obligations it has assumed with respect to the United States or the Agreement for purposes of this subtitle, or

(2) does not in fact honor such obligations.

(d) TREATMENT OF INTERNATIONAL CONSORTIA.—For purposes of this subtitle, if the members (or other participating entities) of an international consortium that is engaged in the production of a class or kind of merchandise subject to a countervailing duty investigation receive subsidies from their respective home countries to assist, permit, or otherwise enable their participation in that consortium through production or manufacturing operations in their respective home countries, then the administering authority shall cumulate all such subsidies, as well as subsidies provided directly to the international consortium, in determining any countervailing duty upon such merchandise.

[(c)] *(e)* UPSTREAM SUBSIDY.—Whenever the administering authority has reasonable grounds to believe or suspect that an upstream subsidy, as defined in section 1677-1(a)(1) of this title, is being paid or bestowed, the administering authority shall investigate whether an upstream subsidy has in fact been paid or bestowed, and if so, shall include the amount of the upstream subsidy as provided in section 1677-1(a)(3) of this title.

[(d)] *(f)* CROSS REFERENCE.—For provisions of law applicable in the case of merchandise which is the product of a country other than a country under the Agreement, see section 1303 of this title.

SEC. 702. PROCEDURES FOR INITIATING A COUNTERVAILING DUTY INVESTIGATION.

(a) * * *

(b) INITIATION BY PETITION.—

(1) PETITION REQUIREMENTS.—A countervailing duty proceeding shall be commenced whenever an interested party described in subparagraph (C), (D), (E), [or (F)] *(F), or (G)* of section 771(9) files a petition with the administering authority, on behalf of an industry, which alleges the elements necessary for the imposition of the duty imposed by section 701(a), and which is accompanied by information reasonably available to the petitioner supporting those allegations. The petition may be amended at such time, and upon such conditions, as the administering authority and the Commission may permit.

* * * * * * *

(e) INFORMATION REGARDING CRITICAL CIRCUMSTANCES.—If, at any time after the initiation of an investigation under this subtitle, the administering authority finds a reasonable basis to suspect that the alleged subsidy is inconsistent with the Agreement, the administering authority may request the Commissioner of Customs to compile information on an expedited basis regarding entries of the class or kind of merchandise that is the subject of the investigation. Upon receiving such request, the Commissioner of Customs shall collect information regarding the volume and value of entries of the class or kind of merchandise that is the subject of the investigation and shall transmit such information to the administering authority at such times as the administering authority shall direct (at least once every 30 days), until a final determination is made under section 705(a), the investigation is terminated, or the administering authority withdraws the request.

SEC. 703. PRELIMINARY DETERMINATIONS.

(a) * * *

* * * * * * *

(e) CRITICAL CIRCUMSTANCES DETERMINATIONS.—

(1) IN GENERAL.—If a petitioner alleges critical circumstances in its original petition, or by amendment at any time more than 20 days before the date of a final determination by the administering authority, then the administering authority shall [promptly] *(at any time after the initiation of the investigation under this subtitle)* determine, on the basis of the best information available to it at that time, whether there is a reasonable basis to believe or suspect that—

* * * * * * *

SEC. 704. TERMINATION OR SUSPENSION OF INVESTIGATION.

(a) * * *

* * * * * * *

(g) Investigation To Be Continued Upon Request.—If the administering authority, within 20 days after the date of publication of the notice of suspension of an investigation, receives a request for the continuation of the investigation from—

(1) the government of the country in which the subsidy practice is alleged to occur, or

(2) an interested party described in [subparagraph (C), (D), (E), and (F)] *subparagraph (C), (D), (E), (F), or (G)* of section 771(9) which is a party to the investigation,

then the administering authority and the Commission shall continue the investigation.

(h) Review of Suspension.—

(1) In general.—Within 20 days after the suspension of an investigation under subsection (c), an interested party which is a party to the investigation and which is described in [subparagraph (C), (D), (E), and (F)] *subparagraph (C), (D), (E), (F), or (G)* of section 771(9) may, by petition filed with the Commission and with notice to the administering authority, ask for a review of the suspension.

SEC. 705. FINAL DETERMINATIONS.

(a) * * *

* * * * * * *

(b) Final Determination by Commission.—

(1) * * *

* * * * * * *

(4) Certain additional findings.—

[(A) If the finding of the administering authority under subsection (a)(2) is affirmative, then the final determination of the Commission shall include findings as to whether—

[(i) there is material injury which will be difficult to repair, and

[(ii) the material injury was by reason of such massive imports of the subsidized merchandise over a relatively short period.]

(A) Retroactive application.—

(i) In general.—If the finding of the administering authority under subsection (a)(2) is affirmative, then the final determination of the Commission shall include a finding as to whether retroactive imposition of a countervailing duty on the merchandise appears necessary to prevent recurrence of material injury that was caused by massive imports of the merchandise over a relatively short period of time and will be difficult to repair.

(ii) Prevention of recurrence.—For purposes of making its finding under clause (i), the Commission shall make an evaluation as to whether the effectiveness of the countervailing duty order would be materially impaired if such imposition did not occur.

(iii) Evaluation of effectiveness.—In making the evaluation under clause (ii), the Commission shall consider, among other factors it considers relevant—

(I) the condition of the domestic industry,

(II) whether massive imports of the merchandise over a relatively short period of time can be accounted for by efforts to avoid the potential imposition of countervailing duties,

(III) whether foreign economic conditions led to the massive imports of the merchandise, and

(IV) whether the impact of the massive imports of the merchandise is likely to continue for some period after issuance of the countervailing duty order under this subtitle.

* * * * * * *

(e) Correction of Ministerial Errors.—The administering authority shall establish procedures for the correction of "ministerial errors" in final determinations within a reasonable time after the determinations are issued under this section. Such procedures shall ensure opportunity for interested parties to present their views regarding any such errors. As used in this subsection, the term "ministerial error" includes errors in addition, subtraction, or other arithmetic function, clerical errors resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which the administering authority considers ministerial.

Subtitle B—Imposition of Antidumping Duties

* * * * * * *

SEC. 732. PROCEDURES FOR INITIATING AN ANTIDUMPING DUTY INVESTIGATION.

(a) * * *

(b) Initiation by Petition.—

(1) Petition requirements.—An antidumping proceeding shall be commenced whenever an interested party described in subparagraph (C), (D), (E), **[**or (F)**]** *(F), or (G)* of section 771(9) files a petition with the administering authority, on behalf of an industry, which alleges the elements necessary for the imposition of the duty imposed by section 731, and which is accompanied by information reasonably available to the petitioner supporting those allegations. The petition may be amended at such time, and upon such conditions, as the administering authority and the Commission may permit.

* * * * * * *

(e) Information Regarding Critical Circumstances.—If, at any time after the initiation of an investigation under this subtitle, the administering authority finds a reasonable basis to suspect that—

(1) there is a history of dumping in the United States or elsewhere of the class or kind of the merchandise which is the subject of the investigation, or

(2) the person by whom, or for whose account, the merchandise was imported knew, or should have known, that the export-

er was selling the merchandise which is the subject of the investigation at less than its fair value,

the administering authority may request the Commissioner of Customs to compile information on an expedited basis regarding entries of the class or kind of merchandise that is the subject of the investigation. Upon receiving such request, the Commissioner of Customs shall collect information regarding the volume and value of entries of the class or kind of merchandise that is the subject of the investigation and shall transmit such information to the administering authority at such times as the administering authority shall direct (at least once every 30 days), until a final determination is made under section 735(a), the investigation is terminated, or the administering authority withdraws the request.

SEC. 733. PRELIMINARY DETERMINATIONS.

(a) * * *

* * * * * * *

(b) PRELIMINARY DETERMINATION BY ADMINISTERING AUTHORITY.—

[(1) PERIOD OF ANTIDUMPING DUTY INVESTIGATION.—Within 160 days after the date on which a petition is filed under section 732(b), or an investigation is commenced under section 732(a), but not before an affirmative determination by the Commission under subsection (a) of this section, the administering authority shall make a determination, based upon the best information available to it at the time of the determination, of whether there is a reasonable basis to believe or suspect that the merchandise is being sold, or is likely to be sold at less than fair value. If the determination of the administering authority under this subsection is affirmative, the determination shall include the estimated average amount by which the foreign market value exceeds the United States price.]

(1) PERIOD OF ANTIDUMPING DUTY INVESTIGATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), within 160 days after the date on which a petition is filed under section 732(b), or an investigation is commenced under section 732(a), but not before an affirmative determination by the Commission under subsection (a) of this section, the administering authority shall make a determination, based upon the best information available to it at the time of the determination, of whether there is a reasonable basis to believe or suspect that the merchandise is being sold, or is likely to be sold, at less than fair value. If the determination of the administering authority under this subsection is affirmative, the determination shall include the estimated average amount by which the foreign market value exceeds the United States price.

(B) IF CERTAIN SHORT LIFE CYCLE MERCHANDISE INVOLVED.—If a petition filed under section 732(b), or an investigation commenced under section 732(a), concerns short life cycle merchandise that is included in a product category established under section 739(a), subparagraph (A) shall be applied—

(i) by substituting "120 days" for "160 days" if manufacturers that are second offenders account for a significant proportion of the merchandise under investigation, and

(ii) by substituting "100 days" for "160 days" if manufacturers that are multiple offenders account for a significant proportion of the merchandise under investigation.

(C) DEFINITIONS OF OFFENDERS.—For purposes of subparagraph (B)—

(i) The term "second offender" means a manufacturer that is specified in 2 affirmative dumping determinations (within the meaning of section 739) as the manufacturer of short life cycle merchandise that is—

(I) specified in both such determinations, and

(II) within the scope of the product category referred to in subparagraph (B).

(ii) The term "multiple offender" means a manufacturer that is specified in 3 or more affirmative dumping determinations (within the meaning of section 739) as the manufacturer of short life cycle merchandise that is—

(I) specified in each of such determinations, and

(II) within the scope of the product category referred to in subparagraph (B).

* * * * * * *

(c) EXTENSION OF PERIOD IN EXTRAORDINARILY COMPLICATED CASES.—

(1) IN GENERAL.—If—

(A) the petitioner makes a timely request for an extension of the period within which the determination must be made under subsection (b)(1), or

(B) the administering authority concludes that the parties concerned are cooperating and determines that—

(i) the case is extraordinarily complicated by reason of—

(I) the number and complexity of the transactions to be investigated or adjustments to be considered,

(II) the novelty of the issues presented, or

(III) the number of firms whose activities must be investigated, and

(ii) additional time is necessary to make the preliminary determination,

then the administering authority may postpone making the preliminary determination under subsection (b)(1) until not later than the 210th day after the date on which a petition is filed under section 732(b), or an investigation is commenced under section 732(a). *No extension of a determination date may be made under this paragraph for any investigation in which a determination date provided for in subsection (b)(1)(B) applies unless the petitioner submits written notice to the administering authority of its consent to the extension.*

(e) CRITICAL CIRCUMSTANCES DETERMINATIONS.—

(1) IN GENERAL.—If a petitioner alleges critical circumstances in its original petition, or by amendment at any time more than 20 days before the date of a final determination by the administering authority, then the administering authority shall promptly *(at any time after the initiation of the investigation under this subtitle)* determine, on the basis of the best information available to it at that time, whether there is a reasonable basis to believe or suspect that—

(A)(i) there is a history of dumping in the United States or elsewhere of the class or kind of the merchandise which is the subject of the investigation, or

(ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value, and

(B) there have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period.

The administering authority shall be treated as having made an affirmative determination under subparagraph (A) in any investigation to which subsection (b)(1)(B) is applied.

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SEC. 734. TERMINATION OR SUSPENSION OF INVESTIGATION.

(a) * * *

* * * * * * *

(g) INVESTIGATION TO BE CONTINUED UPON REQUEST.—If the administering authority, within 20 days after the date of publication of the notice of suspension of an investigation, receives a request for the continuation of the investigation from—

(1) an exporter or exporters accounting for a significant proportion of exports to the United States of the merchandise which is the subject of the investigation, or

(2) an interested party described in [subparagraph (C), (D), (E), and (F)] *subparagraph (C), (D), (E), (F), or (G)* of section 771(9) which is a party to the investigation,

then the administering authority and the Commission shall continue the investigation.

(h) REVIEW OF SUSPENSION.—

(1) IN GENERAL.—Within 20 days after the suspension of an investigation under subsection (c), an interested party which is a party to the investigation and which is described in [subparagraph (C), (D), (E), and (F)] *subparagraph (C), (D), (E), (F), or (G)* of section 771(9) may, by petition file with the Commission and with notice to the administering authority, ask for a review of the suspension.

* * * * * * *

(l) SPECIAL RULE FOR NONMARKET ECONOMY COUNTRIES.—

(1) IN GENERAL.—The administering authority may suspend an investigation under this subtitle upon acceptance of an agreement with a nonmarket economy country to restrict the

volume of imports into the United States of the merchandise under investigation only if the administering authority determines that—

(A) such agreement satisfies the requirements of subsection (d), and

(B) will prevent the suppression or undercutting of price levels of domestic products by imports of the merchandise under investigation.

(2) FAILURE OF AGREEMENTS.—If the administering authority determines that an agreement accepted under this subsection no longer prevents the suppression or undercutting of domestic prices of merchandise manufactured in the United States, the provisions of subsection (i) shall apply.

SEC. 735. FINAL DETERMINATIONS.

(a) * * *

* * * * * * *

(b) FINAL DETERMINATION BY COMMISSION.—

(1) * * *

* * * * * * *

(4) CERTAIN ADDITIONAL FINDINGS.—

[(A) If the finding of the administering authority under subsection (a)(2) is affirmative, then the final determination of the Commission shall include a finding as to whether the material injury is by reason of massive imports described in subsection (a)(3) to an extent that, in order to prevent such material injury from recurring, it is necessary to impose the duty imposed by section 731 retroactively on those imports.]

(A) RETROACTIVE APPLICATION.—

(i) IN GENERAL.—If the finding of the administering authority under subsection (a)(3) is affirmative, then the final determination of the Commission shall include a finding as to whether retroactive imposition of antidumping duties on the merchandise appears necessary to prevent recurrence of material injury that was caused by massive imports of the merchandise over a relatively short period of time.

(ii) PREVENTION OF RECURRENCE.—For purposes of making its finding under clause (i), the Commission shall make an evaluation as to whether the effectiveness of the antidumping duty order would be materially impaired if such imposition did not occur.

(iii) EVALUATION OF EFFECTIVENESS.—In making the evaluation under clause (ii), the Commission shall consider, among other factors it considers relevant—

(I) the condition of the domestic industry,

(II) whether massive imports of the merchandise in a relatively short period of time can be accounted for by efforts to avoid the potential imposition of antidumping duties,

(III) whether foreign economic conditions led to the massive imports of the merchandise, and

(IV) whether the impact of the massive imports of the merchandise is likely to continue for some period after issuance of the antidumping duty order under this subtitle.

* * * * * * *

(e) CORRECTION OF MINISTERIAL ERRORS.—The administering authority shall establish procedures for the correction of ministerial errors in final determinations within a reasonable time after the determinations are issued under this section. Such procedures shall ensure opportunity for interested parties to present their views regarding any such errors. As used in this subsection, the term "ministerial error" includes errors in addition, subtraction, or other arithmetic function, clerical errors resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which the administering authority considers ministerial.

SEC. 736. ASSESSMENT OF DUTY.

(a) * * *

* * * * * * *

(c) SECURITY IN LIEU OF ESTIMATED DUTY PENDING EARLY DETERMINATION OF DUTY.—

[(1) CONDITIONS FOR WAIVER OF DEPOSIT OF ESTIMATED DUTIES.—The administering authority may permit, for not more than 90 days after the date of publication of an order under subsection (a), the posting of a bond or other security in lieu of the deposit of estimated antidumping duties required under subsection (a)(3) if, on the basis of information presented to it by any manufacturer, producer, or exporter in such form and within such time as it may require, it is satisfied that it will be able to determine, within 90 days after the date of publication of an order under subsection (a), the foreign market value and the United States price for all merchandise of such manufacturer, producer, or exporter described in that order which was entered, or withdrawn from warehouse, for consumption on or after the date of publication of—

[(A) an affirmative preliminary determination by the administering authority under section 733(b), or

[(B) if its determination under section 733(b) was negative, an affirmative final determination by the administering authority under section 735(a),

and before the date of publication of the affirmative final determination by the Commission under section 735(b).**]**

(1) CONDITIONS FOR WAIVER OF DEPOSIT OF ESTIMATED DUTIES.—The administering authority may permit, for not more than 90 days after the date of publication of an order under subsection (a), the posting of a bond or other security in lieu of the deposit of estimated antidumping duties required under subsection (a)(3) if—

(A) the investigation has not been designated as extraordinarily complicated by reason of—

(i) the number and complexity of the transactions to be investigated or adjustments to be considered,

(ii) the novelty of the issues presented, or

(iii) the number of firms whose activities must be investigated,

(B) the final determination in the investigation has not been postponed under section 735(a)(2)(A);

(C) on the basis of information presented to the administering authority by any manufacturer, producer, or exporter in such form and within such time as the administering authority may require, the administering authority is satisfied that a determination will be made, within 90 days after the date of publication of an order under subsection (a), of the foreign market value and the United States price for all merchandise of such manufacturer, producer, or exporter described in that order which was entered, or withdrawn from warehouse, for consumption on or after the date of publication of—

(i) an affirmative preliminary determination by the administering authority under section 733(b), or

(ii) if its determination under section 733(b) was negative, an affirmative final determination by the administering authority under section 735(a),

and before the date of publication of the affirmative final determination by the Commission under section 735(b);

(D) the party described in subparagraph (C) provides credible evidence that the amount by which the foreign market value of the merchandise exceeds the United States price of the merchandise is significantly less than the amount of such excess specified in the antidumping duty order published under subsection (a); and

(E) the data concerning the foreign market value and the United States price apply to sales in the usual commercial quantities and in the ordinary course of trade and the number of such sales are sufficient to form an adequate basis for comparison.

* * * * * * *

(4) PROVISION OF BUSINESS PROPRIETARY INFORMATION; WRITTEN COMMENTS.—Before determining whether to permit the posting of bond or other security under paragraph (1) in lieu of the deposit of estimated antidumping duties, the administering authority shall—

(A) make all business proprietary information supplied to the administering authority under paragraph (1) available under a protective order in accordance with section 777(c) to all interested parties described in subparagraph (C), (D), (E), (F), or (G) of section 771(9), and

(B) afford all interested parties an opportunity to file written comments on whether the posting of bond or other security under paragraph (1) in lieu of the deposit of estimated antidumping duties should be permitted.

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SEC. 739. ESTABLISHMENT OF PRODUCT CATEGORIES FOR SHORT LIFE CYCLE MERCHANDISE.

(a) ESTABLISHMENT OF PRODUCT CATEGORIES.—

(1) Petitions.—

(A) In general.—An eligible domestic entity may file a petition with the Commission requesting that a product category be established with respect to short life cycle merchandise at any time after the merchandise becomes the subject of 2 or more affirmative dumping determinations.

(B) Contents.—A petition filed under subparagraph (A) shall—

(i) identify the short life cycle merchandise that is the subject of the affirmative dumping determinations,

(ii) specify the short life cycle merchandise that the petitioner seeks to have included in the same product category as the merchandise that is subject to the affirmative dumping determinations,

(iii) specify any short life cycle merchandise the petitioner particularly seeks to have excluded from the product category,

(iv) provide reasons for the inclusions and exclusions specified under clauses (ii) and (iii), and

(v) identify such merchandise in terms of the designations used in the Tariff Schedules of the United States.

(2) Determinations on sufficiency of petition.—Upon receiving a petition under paragraph (1), the Commission shall—

(A) request the administering authority to confirm promptly the affirmative determinations on which the petition is based, and

(B) upon receipt of such confirmation, determine whether the merchandise covered by the confirmed affirmative determinations is short life cycle merchandise and whether the petitioner is an eligible domestic entity.

(3) Notice; hearings.—If the determinations under paragraph (2)(B) are affirmative, the Commission shall—

(A) publish notice in the Federal Register that the petition has been received, and

(B) provide opportunity for the presentation of views regarding the establishment of the requested product category, including a public hearing if requested by any interested person.

(4) Determinations.—

(A) In general.—By no later than the date that is 90 days after the date on which a petition is filed under paragraph (1), the Commission shall determine the scope of the product category into which the short life cycle merchandise that is the subject of the affirmative dumping determinations identified in such petition shall be classified for purposes of this section.

(B) Modifications not requested by petition.—

(i) In general.—The Commission may, on its own initiative, make a determination modifying the scope of any product category established under subparagraph (A) at any time.

(ii) Notice and hearing.—Determinations may be made under clause (i) only after the Commission has—

(I) published in the Federal Register notice of the proposed modification, and

(II) provided interested parties an opportunity for a hearing, and a period for the submission of written comments, on the classification of merchandise into the product categories to be affected by such determination.

(C) BASIS OF DETERMINATIONS.—In making determinations under subparagraph (A) or (B), the Commission shall ensure that each product category consists of similar short life cycle merchandise which is produced by similar processes under similar circumstances and has similar uses.

(b) DEFINITIONS.—For purposes of this section—

(1) ELIGIBLE DOMESTIC ENTITY.—The term "eligible domestic entity" means a manufacturer or producer in the United States, or a certified union or recognized union or group of workers which is representative of an industry in the United States, that manufactures or produces short life cycle merchandise that is—

(A) like or directly competitive with other merchandise that is the subject of 2 or more affirmative dumping determinations, or

(B) is similar enough to such other merchandise as to be considered for inclusion with such merchandise in a product monitoring category established under this section.

(2) AFFIRMATIVE DUMPING DETERMINATION.—The term "affirmative dumping determination" means—

(A) any affirmative final determination made by the administering authority under section 735(a) during the 8-year period preceding the filing of the petition under this section that results in the issuance of an antidumping duty order under section 736 which requires the deposit of estimated antidumping duties at a rate of not less than 15 percent ad valorem, or

(B) any affirmative preliminary determination that—

(i) is made by the administering authority under section 733(b) during the 8-year period preceding the filing of the petition under this section in the course of an investigation for which no final determination is made under section 735 by reason of a suspension of the investigation under section 734, and

(ii) includes a determination that the estimated average amount by which the foreign market value of the merchandise exceeds the United States price of the merchandise is not less than 15 percent ad valorem.

(3) SUBJECT OF AFFIRMATIVE DUMPING DETERMINATION.—

(A) IN GENERAL.—Short life cycle merchandise of a manufacturer shall be treated as being the subject of an affirmative dumping determination only if the administering authority—

(i) makes a separate determination of the amount by which the foreign market value of such merchandise of the manufacturer exceeds the United States price of such merchandise of the manufacturer, and

(ii) specifically identifies the manufacturer by name with such amount in the affirmative dumping determination or in an antidumping duty order issued as a result of the affirmative dumping determination.

(B) EXCLUSION.—Short life cycle merchandise of a manufacturer shall not be treated as being the subject of an affirmative dumping determination if—

(i) such merchandise of the manufacturer is part of a group of merchandise to which the administering authority assigns (in lieu of making separate determinations described in subparagraph (A)(i)(I)) an amount determined to be the amount by which the foreign market value of the merchandise in such group exceeds the United States price of the merchandise in such group, and

(ii) the merchandise and the manufacturer are not specified by name in the affirmative dumping determination or in any antidumping duty order issued as a result of such affirmative dumping determination.

(4) SHORT LIFE CYCLE MERCHANDISE.—The term "short life cycle merchandise" means any product that the Commission determines is likely to become outmoded within 4 years, by reason of technological advances, after the product is commercially available. For purposes of this paragraph, the term "outmoded" refers to a kind of style that is no longer state-of-the-art.

(c) TRANSITIONAL RULES.—

(1) For purposes of this section and section 733(b)(1) (B) and (C), all affirmative dumping determinations described in subsection (b)(2)(A) that were made after December 31, 1980, and before the date of enactment of the Omnibus Trade and Competitiveness Act of 1988, and all affirmative dumping determinations described in subsection (b)(2)(B) that were made after December 31, 1984, and before the date of enactment of such Act, with respect to each category of short life cycle merchandise of the same manufacturer shall be treated as one affirmative dumping determination with respect to that category for that manufacturer which was made on the date on which the latest of such determinations was made.

(2) No affirmative dumping determination that—

(A) is described in subsection (b)(2)(A) and was made before January 1, 1981, or

(B) is described in subsection (b)(2)(B) and was made before January 1, 1985,

may be taken into account under this section or section 733(b)(1) (B) and (C).

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Subtitle C—Reviews of Determinations

SEC. 751. ADMINISTRATIVE REVIEW OF DETERMINATIONS.

(a) * * *

* * * * * * *

(f) CORRECTION OF MINISTERIAL ERRORS.—The administering authority shall establish procedures for the correction of ministerial errors in final determinations within a reasonable time after the determinations are issued under this section. Such procedures shall ensure opportunity for interested parties to present their views regarding any such errors. As used in this subsection, the term "ministerial error" includes errors in addition, subtraction, or other arithmetic function, clerical errors resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which the administering authority considers ministerial.

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Subtitle D—General Provisions

SEC. 771. DEFINITIONS; SPECIAL RULES.

For purposes of this title—

(1) * * *

* * * * * * *

(4) INDUSTRY.—

(A) * * *

* * * * * * *

(E) INDUSTRY PRODUCING PROCESSED AGRICULTURAL PRODUCTS.—

(i) IN GENERAL.—Subject to clause (v), in an investigation involving a processed agricultural product produced from any raw agricultural product, the producers or growers of the raw agricultural product may be considered part of the industry producing the processed product if—

(I) the processed agricultural product is produced from the raw agricultural product through a single continuous line of production; and

(II) there is a substantial coincidence of economic interest between the producers or growers of the raw agricultural product and the processors of the processed agricultural product based upon relevant economic factors, which may, in the discretion of the Commission, include price, added market value, or other economic interrelationships (regardless of whether such coincidence of economic interest is based upon any legal relationship).

(ii) PROCESSING.—For purposes of this subparagraph, the processed agricultural product shall be considered to be processed from a raw agricultural product through a single continuous line of production if—

(I) the raw agricultural product is substantially or completely devoted to the production of the processed agricultural product; and

(II) the processed agricultural product is produced substantially or completely from the raw product.

(iii) RELEVANT ECONOMIC FACTORS.—For purposes of clause (i)(II), in addition to such other factors it considers relevant to the question of coincidence of economic interest, the Commission shall—

(I) if price is taken into account, consider the degree of correlation between the price of the raw agricultural product and the price of the processed agricultural product; and

(II) if added market value is taken into account, consider whether the value of the raw agricultural product constitutes a significant percentage of the value of the processed agricultural product.

(iv) RAW AGRICULTURAL PRODUCT.—For purposes of this subparagraph, the term "raw agricultural product" means any farm or fishery product.

(v) TERMINATION OF THIS SUBPARAGRAPH.—This subparagraph shall cease to have effect if the United States Trade Representative notifies the administering authority and the Commission that the application of this subparagraph is inconsistent with the international obligations of the United States.

[(5) SUBSIDY.—The term "subsidy" has the same meaning as the term "bounty or grant" as that term is used in section 303 of this Act, and includes, but is not limited to, the following:

[(A) Any export subsidy described in Annex A to the Agreement (relating to illustrative list of export subsidies).

[(B) The following domestic subsidies, if provided or required by government action to a specific enterprise or industry, or group of enterprises or industries, whether publicly or privately owned, and whether paid or bestowed directly or indirectly on the manufacture, production, or export of any class or kind of merchandise:

[(i) The provision of capital, loans, or loan guarantees on terms inconsistent with commercial considerations.

[(ii) The provision of goods or services at preferential rates.

[(iii) The grant of funds or forgiveness of debt to cover operating losses sustained by a specific industry.

[(iv) The assumption of any costs or expenses of manufacture, production, or distribution.]

(5) SUBSIDY.—

(A) IN GENERAL.—The term "subsidy" has the same meaning as the term "bounty or grant" as that term is used in section 303, and includes, but is not limited to, the following:

(i) Any export subsidy described in Annex A to the Agreement (relating to illustrative list of export subsidies).

(ii) The following domestic subsidies, if provided or required by government action to a specific enterprise or industry, or group of enterprises or industries, whether publicly or privately owned and whether paid or bestowed directly or indirectly on the manufacture,

production, or export of any class or kind of merchandise:

(I) The provision of capital, loans, or loan guarantees on terms inconsistent with commercial considerations.

(II) The provision of goods or services at preferential rates.

(III) The grant of funds or forgiveness of debt to cover operating losses sustained by a specific industry.

(IV) The assumption of any costs or expenses of manufacture, production, or distribution.

(B) SPECIAL RULE.—In applying subparagraph (A), the administering authority, in each investigation, shall determine whether the bounty, grant, or subsidy in law or in fact is provided to a specific enterprise or industry, or group of enterprises or industries. Nominal general availability, under the terms of the law, regulation, program, or rule establishing a bounty, grant, or subsidy, of the benefits thereunder is not a basis for determining that the bounty, grant, or subsidy is not, or has not been, in fact provided to a specific enterprise or industry, or group thereof.

* * * * * * *

(7) MATERIAL INJURY.—

(A) * * *

* * * * * * *

[(B) VOLUME AND CONSEQUENT IMPACT.—In making its determinations under sections 703(a), 705(b), 733(a), and 735(b), the Commission shall consider, among other factors—

[(i) the volume of imports of the merchandise which is the subject of the investigation,

[(ii) the effect of imports of that merchandise on prices in the United States for like products, and

[(iii) the impact of imports of such merchandise on domestic producers of like products.]

(B) VOLUME AND CONSEQUENT IMPACT.—In making determinations under sections 703(a), 705(b), 733(a), and 735(b), the Commission, in each case—

(i) shall consider—

(I) the volume of imports of the merchandise which is the subject of the investigation,

(II) the effect of imports of that merchandise on prices in the United States for like products, and

(III) the impact of imports of such merchandise on domestic producers of like products, but only in the context of production operations within the United States; and

(ii) may consider such other economic factors as are relevant to the determination regarding whether there is material injury by reason of imports.

In the notification required under section 705(d) or 735(d), as the case may be, the Commission shall explain its analy-

sis of each factor considered under clause (i), and identify each factor considered under clause (ii) and explain in full its relevance to the determination.

[(C) EVALUATION OF VOLUME AND OF PRICE EFFECTS.—For purposes of subparagraph (B)—]

(C) EVALUATION OF RELEVANT FACTORS.—

* * * * * * *

(ii) PRICE.—In evaluating the effect of imports of such merchandise on prices, the Commission shall consider whether—

(I) there has been significant [price undercutting] *price underselling* by the imported merchandise as compared with the price of like products of the United States, and

* * * * * * *

[(iii) IMPACT ON AFFECTED INDUSTRY.—In examining the impact on the affected industry, the Commission shall evaluate all relevant economic factors which have a bearing on the state of the industry, including, but not limited to—

[(I) actual and potential decline in output, sales, market share, profits, productivity, return on investments, and utilization of capacity,

[(II) factors affecting domestic prices, and

[(III) actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment.]

(iii) IMPACT ON AFFECTED DOMESTIC INDUSTRY.—In examining the impact required to be considered under subparagraph (B)(iii), the Commission shall evaluate all relevant economic factors which have a bearing on the state of the industry in the United States, including, but not limited to—

(I) actual and potential decline in output, sales, market share, profits, productivity, return on investments, and utilization of capacity,

(II) factors affecting domestic prices,

(III) actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment, and

(IV) actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the like product.

The Commission shall evaluate all relevant economic factors described in this clause within the context of the business cycle and conditions of competition that are distinctive to the affected industry.

(iv) CUMULATION.—To the extent practicable and subject to subparagraph (C)(v), for purposes of clause (i) (III) and (IV) the Commission may cumulatively assess

the volume and price effects of imports from two or more countries if such imports—

(I) compete with each other, and with like products of the domestic industry, in the United States market, and

(II) are subject to any investigation under section 303, 701, or 731.

(v) Treatment of negligible imports.—The Commission is not required to apply clause (iv) or subparagraph (F)(iv) in any case in which the Commission determines that imports of the merchandise subject to investigation are negligible and have no discernable adverse impact on the domestic industry. For purposes of making such determination, the Commission shall evaluate all relevant economic factors regarding the imports, including, but not limited to, whether—

(I) the volume and market share of the imports are negligible,

(II) sales transactions involving the imports are isolated and sporadic, and

(III) the domestic market for the like product is price sensitive by reason of the nature of the product, so that a small quantity of imports can result in price suppression or depression.

For purposes of this clause, the Commission may treat as negligible and having no discernable adverse impact on the domestic industry imports that are the product of any country that is a party to a free trade area agreement with the United States which entered into force and effect before January 1, 1987, if the Commission determines that the domestic industry is not being materially injured by reason of such imports.

* * * * * * *

(F) THREAT OF MATERIAL INJURY.—

(i) * * *

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(VII) any other demonstrable adverse trends that indicate the probability that the importation (or sale for importation) of the merchandise (whether or not it is actually being imported at the time) will be the cause of actual injury, **[**and**]**

(VIII) the potential for product-shifting if production facilities owned or controlled by the foreign manufacturers, which can be used to produce products subject to investigation(s) under section 701 or 731 or to final orders under section 706 or 736, are also used to produce the merchandise under investigation**[**.**]**

(IX) in any investigation under this title which involves imports of both a raw agricultural product (within the meaning of paragraph (4)(E)(iv))

and any product processed from such raw agricultural product, the likelihood that there will be increased imports, by reason of product shifting, if there is an affirmative determination by the Commission under section 705(b)(1) or 735(b)(1) with respect to either the raw agricultural product or the processed agricultural product (but not both), and

(X) the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the like product.

* * * * * * *

(iii) EFFECT OF DUMPING IN THIRD-COUNTRY MARKETS.—

(I) IN GENERAL.—In investigations under subtitle B, the Commission shall consider whether dumping in the markets of foreign countries (as evidenced by dumping findings or antidumping remedies in other GATT member markets against the same class or kind of merchandise manufactured or exported by the same party as under investigation) suggests a threat of material injury to the domestic industry. In the course of its investigation, the Commission shall request information from the foreign manufacturer, exporter, or United States importer concerning this issue.

(II) GATT MEMBER MARKET.—For purposes of this clause, the term "GATT member market" means the market of any country which is a signatory to The Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade (relating to antidumping measures).

(III) EUROPEAN COMMUNITIES.—For purposes of this clause, the European Communities shall be treated as a foreign country.

(iv) CUMULATION.—To the extent practicable and subject to subparagraph (C)(v), for purposes of clause (i)(III) and (IV) the Commission may cumulatively assess the volume and price effects of imports from two or more countries if such imports—

(I) compete with each other, and with like products of the domestic industry, in the United States market, and

(II) are subject to any investigation under section 303, 701, or 731.

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(9) **INTERESTED PARTY.**—The term "interested party" means—

(A) * * *

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(E) a trade or business association a majority of whose members manufacture, produce, or wholesale a like product in the United States, [and]

(F) an association, a majority of whose members is composed of interested parties described in subparagraph (C), (D), or (E) with respect to a like product[.], *and*

(G) in any investigation under this title involving an industry engaged in producing a processed agricultural product, as defined in paragraph (4)(E), a coalition or trade association which is representative of either—

(i) processors,

(ii) processors and producers, or

(iii) processors and growers,

but this subparagraph shall cease to have effect if the United States Trade Representative notifies the administering authority and the Commission that the application of this subparagraph is inconsistent with the international obligations of the United States.

* * * * * * *

(18) NONMARKET ECONOMY COUNTRY.—

(A) IN GENERAL.—The term "nonmarket economy country" means any foreign country that the administering authority determines does not operate on market principles of cost or pricing structures, so that sales of merchandise in such country do not reflect the fair value of the merchandise.

(B) FACTORS TO BE CONSIDERED.—In making determinations under subparagraph (A) the administering authority shall take into account—

(i) the extent to which the currency of the foreign country is convertible into the currency of other countries;

(ii) the extent to which wage rates in the foreign country are determined by free bargaining between labor and management,

(iii) the extent to which joint ventures or other investments by firms of other foreign countries are permitted in the foreign country,

(iv) the extent of government ownership or control of the means of production,

(v) the extent of government control over the allocation of resources and over the price and output decisions of enterprises, and

(vi) such other factors as the administering authority considers appropriate.

(C) DETERMINATION IN EFFECT.—

(i) Any determination that a foreign country is a nonmarket economy country shall remain in effect until revoked by the administering authority.

(ii) The administering authority may make a determination under subparagraph (A) with respect to any foreign country at any time.

(D) DETERMINATIONS NOT IN ISSUE.—Notwithstanding any other provision of law, any determination made by the administering authority under subparagraph (A) shall not be subject to judicial review in any investigation conducted under subtitle B.

(E) COLLECTION OF INFORMATION.—Upon request by the administering authority, the Commissioner of Customs shall provide the administering authority a copy of all public and proprietary information submitted to, or obtained by, the Commissioner of Customs that the administering authority considers relevant to proceedings involving merchandise from nonmarket economy countries. The administering authority shall protect proprietary information obtained under this section from public disclosure in accordance with section 777.

* * * * * * *

(19) EQUIVALENCY OF LEASES TO SALES.—In determining whether a lease is equivalent to a sale for purposes of this title, the administering authority shall consider—

(A) the terms of the lease,

(B) commercial practice within the industry,

(C) the circumstances of the transaction,

(D) whether the product subject to the lease is integrated into the operations of the lessee or importer,

(E) whether in practice there is a likelihood that the lease will be continued or renewed for a significant period of time, and

(F) other relevant factors, including whether the lease transaction would permit avoidance of antidumping or countervailing duties.

(20) APPLICATION TO GOVERNMENTAL IMPORTATIONS.—

(A) IN GENERAL.—Except as otherwise provided by this paragraph, merchandise imported by, or for the use of, a department or agency of the United States Government (including merchandise provided for under schedule 8 of the Tariff Schedules of the United States) is subject to the imposition of countervailing duties or antidumping duties under this title or section 303.

(B) EXCEPTIONS.—Merchandise imported by, or for the use of, the Department of Defense shall not be subject to the imposition of countervailing or antidumping duties under this title if—

(i) the merchandise is acquired by, or for use of, such Department—

(I) from a country with which such Department had a Memorandum of Understanding which was in effect on January 1, 1988, and has continued to have a comparable agreement (including renewals) or superseding agreements, and

(II) in accordance with terms of the Memorandum of Understanding in effect at the time of importation, or

(ii) the merchandise has no substantial nonmilitary use.

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SEC. 771B. CALCULATION OF SUBSIDIES ON CERTAIN PROCESSED AGRICULTURAL PRODUCTS.

In the case of an agricultural product processed from a raw agricultural product in which—

(1) the demand for the prior stage product is substantially dependent on the demand for the latter stage product, and

(2) the processing operation adds only limited value to the raw commodity, subsidies found to be provided to either producers or processors of the product shall be deemed to be provided with respect to the manufacture, production, or exportation of the processed product.

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SEC. 773. FOREIGN MARKET VALUE.

(a) DETERMINATION; FICTITIOUS MARKET; SALES AGENCIES.—For purposes of this title—

(1) IN GENERAL.—

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(5) FICTITIOUS MARKETS.—The occurrence of different movements in the prices at which different forms of any merchandise subject to an antidumping duty order issued under this title are sold (or, in the absence of sales, offered for sale) after the issuance of such order in the principal markets of the foreign country from which the merchandise is exported may be considered by the administering authority as evidence of the establishment of a fictitious market for the merchandise if the movement in such prices appears to reduce the amount by which the foreign market value of the merchandise exceeds the United States price of the merchandise.

*　　*　　*　　*　　*　　*　　*

[(c) STATE-CONTROLLED ECONOMIES.—If available information indicates to the administering authority that the economy of the country from which the merchandise is exported is State-controlled to an extent that sales or offers of sales of such or similar merchandise in that country or to countries other than the United States do not permit a determination of foreign market value under subsection (a) of this section, the administering authority shall determine the foreign market value of the merchandise on the basis of the normal costs, expenses, and profits as reflected by either—

[(1) the prices, determined in accordance with subsection (a) of this section, at which such or similar merchandise of a non-State-controlled-economy country or countries is sold either—

[(A) for consumption in the home market of that country or countries, or

[(B) to other countries, including the United States; or

[(2) the constructed value of such or similar merchandise in a non-State-controlled-economy country or countries as determined under subsection (e).**]**

(c) Nonmarket Economy Countries.—

(1) In general.—If—

(A) the merchandise under investigation is exported from a nonmarket economy country, and

(B) the administering authority finds that available information does not permit the foreign market value of the merchandise to be determined under subsection (a),

the administering authority shall determine the foreign market value of the merchandise on the basis of the value of the factors of production utilized in producing the merchandise and to which shall be added an amount for general expenses and profit plus the cost of containers, coverings, and other expenses, as required by subsection (e). Except as provided in paragraph (2), the valuation of the factors of production shall be based on the best available information regarding the values of such factors in a market economy country or countries considered to be appropriate by the administering authority.

(2) Exception.—If the administering authority finds that the available information is inadequate for purposes of determining the foreign market value of merchandise under paragraph (1), the administering authority shall determine the foreign market value on the basis of the price at which merchandise that is—

(A) comparable to the merchandise under investigation, and

(B) produced in one or more market economy countries that are at a level of economic development comparable to that of the nonmarket economy country,

is sold in other countries, including the United States.

(3) Factors of production.—For purposes of paragraph (1), the factors of production utilized in producing merchandise include, but are not limited to—

(A) hours of labor required,

(B) quantities of raw materials employed,

(C) amounts of energy and other utilities consumed, and

(D) representative capital cost, including depreciation.

(4) Valuation of factors of production.—The administering authority, in valuing factors of production under paragraph (1), shall utilize, to the extent possible, the prices or costs of factors of production in one or more market economy countries that are—

(A) at a level of economic development comparable to that of the nonmarket economy country, and

(B) significant producers of comparable merchandise.

* * * * * * *

(e) Constructed Value.—

(1) Determination.—For the purposes of this title, the constructed value of imported merchandise shall be the sum of—

* * * * * *

(2) Transactions disregarded; best evidence.—For the purposes of this subsection, a transaction directly or indirectly between persons specified in any one of the subparagraphs in paragraph [(3)] *(4)* of this subsection may be disregarded if, in

the case of any element of value required to be considered, the amount representing that element does not fairly reflect the amount usually reflected in sales in the market under consideration of merchandise under consideration. If a transaction is disregarded under the preceding sentence and there are no other transactions available for consideration, then the determination of the amount required to be considered shall be based on the best evidence available as to what the amount would have been if the transaction had occurred between persons not specified in any one of the subparagraphs in paragraph **[**(3)**]** *(4)* of this section.

(3) SPECIAL RULE.—If, regarding any transaction between persons specified in any one of the subparagraphs of paragraph (4) involving the production by one of such persons of a major input to the merchandise under consideration, the administering authority has reasonable grounds to believe or suspect that an amount represented as the value of such input is less than the costs of production of such input, then the administering authority may determine the value of the major input on the best evidence available regarding such costs of production, if such costs are greater than the amount that would be determined for such input under paragraph (2).

[(3)**]** *(4)* RELATED PARTIES.—The persons referred to in **[**paragraph (2)**]** *paragraph (2) and (3)* of this subsection are:

* * * * * * *

SEC. 776. VERIFICATION OF INFORMATION.

(a) CERTIFICATION OF SUBMISSIONS.—Any person providing factual information to the administering authority or the Commission in connection with a proceeding under this title on behalf of the petitioner or any other interested party shall certify that such information is accurate and complete to the best of that person's knowledge.

[(a) GENERAL RULE.—**]** *(b) VERIFICATION.*—Except with respect to information the verification of which is waived under section 733(b)(2), the administering authority shall verify all information relied upon in making a final determination in an investigation. In publishing such a determination, the administering authority shall report the methods and procedures used to verify such information. If the administering authority is unable to verify the accuracy of the information submitted, it shall use the best information available to it as the basis for its determination, which may include the information submitted in support of the petition.

[(b)**]** *(c)* DETERMINATIONS TO BE MADE ON BEST INFORMATION AVAILABLE.—In making their determinations under this title, the administering authority and the Commission shall, whenever a party or any other person refuses or is unable to produce information requested in a timely manner and in the form required, or otherwise significantly impedes an investigation, use the best information otherwise available.

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SEC. 777. ACCESS TO INFORMATION.

(a) * * *

(b) PROPRIETARY INFORMATION.—

(1) CONFIDENTIALITY MAINTAINED.—Except as provided in subsection (a)(4)(A) and subsection (c), information submitted to the administering authority or the Commission which is designated as proprietary by the person submitting it shall not be disclosed to any person (other than an officer or employee of the administering authority or the Commission who is directly concerned with carrying out the investigation in connection with which the information is submitted, or an officer or employee of the United States Customs Service who is directly involved in conducting an investigation regarding fraud under this title) without the consent of the person submitting it. The administering authority and the Commission shall require that information for which proprietary treatment is requested be accompanied by—

(A) * * *

(B) either—

(i) * * *

[(ii) a statement that the information should not be released under administrative protective order.**]**

(ii) a statement to the administering authority or the Commission that the business proprietary information is of a type that should not be released under administrative protective order.

* * * * * * *

(c) LIMITED DISCLOSURE OF CERTAIN PROPRIETARY INFORMATION UNDER PROTECTIVE ORDER.—

(1) DISCLOSURE BY ADMINISTERING AUTHORITY OR COMMISSION.—

[(A) IN GENERAL.—Upon receipt of an application, (before or after receipt of the information requested) which describes with particularity the information requested and sets forth the reasons for the request, the administering authority and the Commission may make proprietary information submitted by any other party to the investigation available under a protective order described in subparagraph (B).**]**

(A) IN GENERAL.—Upon receipt of an application (before or after receipt of the information requested) which describes in general terms the information requested and sets forth the reasons for the request, the administering authority or the Commission shall make all business proprietary information presented to, or obtained by it, during a proceeding (except privileged information, classified information, and specific information of a type for which there is a clear and compelling need to withhold from disclosure) available to interested parties who are parties to the proceeding under a protective order described in subparagraph (B), regardless of when the information is submitted during a proceeding.

* * * * * * *

(C) TIME LIMITATION ON DETERMINATIONS.—The administering authority or the Commission, as the case may be,

shall determine whether to make information available under this paragraph—

(i) not later than 14 days (7 days if the submission pertains to a proceeding under section 703(a) or 733(a)) after the date on which the information is submitted, or

(ii) if—

(I) the person that submitted the information raises objection to its release, or

(II) the information is unusually voluminous or complex,

not later than 30 days (10 days if the submission pertains to a proceeding under section 703(a) or 733(a)) after the date on which the information is submitted.

(D) AVAILABILITY AFTER DETERMINATION.—If the determination under subparagraph (C) is affirmative, then—

(i) the business proprietary information submitted to the administering authority or the Commission on or before the date of the determination shall be made available, subject to the terms and conditions of the protective order, on such date; and

(ii) the business proprietary information submitted to the administering authority or the Commission after the date of the determination shall be served as required by subsection (d).

(E) FAILURE TO DISCLOSE.—If a person submitting information to the administering authority refuses to disclose business proprietary information which the administering authority determines should be released under a protective order described in subparagraph (B), the administering authority shall return the information, and any nonconfidential summary thereof, to the person submitting the information and summary and shall not consider either.

(2) DISCLOSURE UNDER COURT ORDER.—If the administering authority denies a request for information under paragraph (1), [or the Commission denies a request for proprietary information submitted by the petitioner or an interested party in support of the petitioner concerning the domestic price or cost of production of the like product,] then application may be made to the United States Customs Court for an order directing the administering authority or the Commission to make the information available. After notification of all parties to the investigation and after an opportunity for a hearing on the record, the court may issue an order, under such conditions as the court deems appropriate, which shall not have the effect of stopping or suspending the investigation, directing the administering authority or the Commission to make all or a portion of the requested information described in the preceding sentence available under a protective order and setting forth sanctions for violation of such order if the court finds that, under the standards applicable in proceedings of the court, such an order is warranted, and that—

* * * * * * *

(d) SERVICE.—Any party submitting written information, including business proprietary information, to the administering authority or the Commission during a proceeding shall, at the same time, serve the information upon all interested parties who are parties to the proceeding, if the information is covered by a protective order. The administering authority or the Commission shall not accept any such information that is not accompanied by a certificate of service and a copy of the protective order version of the document containing the information. Business proprietary information shall only be served upon interested parties who are parties to the proceeding that are subject to protective order; however, a nonconfidential summary thereof shall be served upon all other interested parties who are parties to the proceeding.

(e) TIMELY SUBMISSIONS.—Information shall be submitted to the administering authority or the Commission during the course of a proceeding on a timely basis and shall be subject to comment by other parties within such reasonable time as the administering authority or the Commission shall provide. If information is submitted without an adequate opportunity for other parties to comment thereon, the administering authority or the Commission may return the information to the party submitting it and not consider it.

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SEC. 779. [DRAWBACKS.] *DRAWBACK TREATMENT.*

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For purposes of any law relating to the drawback of customs duties, countervailing duties and antidumping duties imposed by this title [shall be treated as any other] *shall not be treated as being regular* customs duties.

SEC. 780. DOWNSTREAM PRODUCT MONITORING.

(a) PETITION REQUESTING MONITORING.—

(1) IN GENERAL.—A domestic producer of an article that is like a component part or a downstream product may petition the administering authority to designate a downstream product for monitoring under subsection (b). The petition shall specify—

(A) the downstream product,

(B) the component product incorporated into such downstream product, and

(C) the reasons for suspecting that the imposition of antidumping or countervailing duties has resulted in a diversion of exports of the component part into increased production and exportation to the United States of such downstream product.

(2) DETERMINATION REGARDING PETITION.—Within 14 days after receiving a petition submitted under paragraph (1), the administering authority shall determine—

(A) whether there is a reasonable likelihood that imports into the United States of the downstream product will increase as an indirect result of any diversion with respect to the component part, and

(B) whether—

(i) the component part is already subject to monitoring to aid in the enforcement of a bilateral arrange-

ment (within the meaning of section 804 of the Trade and Tariff Act of 1984),

(ii) merchandise related to the component part and manufactured in the same foreign country in which the component part is manufactured has been the subject of a significant number of investigations suspended under section 704 or 734 or countervailing or antidumping duty orders issued under this title or section 303, or

(iii) merchandise manufactured or exported by the manufacturer or exporter of the component part that is similar in description and use to the component part has been the subject of at least 2 investigations suspended under section 704 or 734 or countervailing or antidumping duty orders issued under this title or section 303.

(3) FACTORS TO TAKE INTO ACCOUNT.—In making a determination under paragraph (2)(A), the administering authority may, if appropriate, take into account such factors as—

(A) the value of the component part in relation to the value of the downstream product,

(B) the extent to which the component part has been substantially transformed as a result of its incorporation into the downstream product, and

(C) the relationship between the producers of component parts and producers of downstream products.

(4) PUBLICATION OF DETERMINATION.—The administering authority shall publish in the Federal Register notice of each determination made under paragraph (2) and, if the determination made under paragraph (2)(A) and a determination made under any subparagraph of paragraph (2)(B) are affirmative, shall transmit a copy of such determinations and the petition to the Commission.

(5) DETERMINATIONS NOT SUBJECT TO JUDICIAL REVIEW.—Notwithstanding any other provision of law, any determination made by the administering authority under paragraph (2) shall not be subject to judicial review.

(b) MONITORING BY THE COMMISSION.—

(1) IN GENERAL.—If the determination made under subsection (a)(2)(A) and a determination made under any clause of subsection (a)(2)(B) with respect to a petition are affirmative, the Commission shall immediately commence monitoring of trade in the downstream product that is the subject of the determination made under subsection (a)(2)(A). If the Commission finds that imports of a downstream product being monitored increased during any calendar quarter by 5 percent or more over the preceding quarter, the Commission shall analyze that increase in the context of overall economic conditions in the product sector.

(2) REPORTS.—The Commission shall make quarterly reports to the administering authority regarding the monitoring and analyses conducted under paragraph (1). The Commission shall make the reports available to the public.

(c) ACTION ON BASIS OF MONITORING REPORTS.—The administering authority shall review the information in the reports submitted by the Commission under subsection (b)(2) and shall—

(1) consider the information in determining whether to initiate an investigation under section 702(a), 732(a), or 303 regarding any downstream product, and

(2) request the Commission to cease monitoring any downstream product if the information indicates that imports into the United States are not increasing and there is no reasonable likelihood of diversion with respect to component parts.

(d) DEFINITIONS.—For purposes of this section—

(1) The term "component part" means any imported article that—

(A) during the 5-year period ending on the date on which the petition is filed under subsection (a), has been subject to—

(i) a countervailing or antidumping duty order issued under this title or section 303 that requires the deposit of estimated countervailing or antidumping duties imposed at a rate of at least 15 percent ad valorem, or

(ii) an agreement entered into under section 704, 734, or 303 after a preliminary affirmative determination under section 703(b), 733(b)(1), or 303 was made by the administering authority which included a determination that the estimated net subsidy was at least 15 percent ad valorem or that the estimated average amount by which the foreign market value exceeded the United States price was at least 15 percent ad valorem, and

(B) because of its inherent characteristics, is routinely used as a major part, component, assembly, subassembly, or material in a downstream product.

(2) The term "downstream product" means any manufactured article—

(A) which is imported into the United States, and

(B) into which is incorporated any component part.

SEC. 781. PREVENTION OF CIRCUMVENTION OF ANTIDUMPING AND COUNTERVAILING DUTY ORDERS.

(a) MERCHANDISE COMPLETED OR ASSEMBLED IN THE UNITED STATES.—

(1) IN GENERAL.—If—

(A) merchandise sold in the United States is of the same class or kind as any other merchandise that is the subject of—

(i) an antidumping duty order issued under section 736,

(ii) a finding issued under the Antidumping Act, 1921, or

(iii) a countervailing duty order issued under section 706 or section 303,

(B) such merchandise sold in the United States is completed or assembled in the United States from parts or components produced in the foreign country with respect to which such order or finding applies, and

(C) the difference between the value of such merchandise sold in the United States and the value of the imported parts and components referred to in subparagraph (B) is small,

the administering authority, after taking into account any advice provided by the Commission under subsection (e), may include within the scope of such order or finding the imported parts or components referred to in subparagraph (B) that are used in the completion or assembly of the merchandise in the United States at any time such order or finding is in effect.

(2) FACTORS TO CONSIDER.—In determining whether to include parts or components in a countervailing or antidumping duty order or finding under paragraph (1), the administering authority shall take into account such factors as—

(A) the pattern of trade,

(B) whether the manufacturer or exporter of the parts or components is related to the person who assembles or completes the merchandise sold in the United States from the parts or components produced in the foreign country with respect to which the order or finding described in paragraph (1) applies, and

(C) whether imports into the United States of the parts or components produced in such foreign country have increased after the issuance of such order or finding.

(b) MERCHANDISE COMPLETED OR ASSEMBLED IN OTHER FOREIGN COUNTRIES.—

(1) IN GENERAL.—If—

(A) merchandise imported into the United States is of the same class or kind as any merchandise produced in a foreign country that is the subject of—

(i) an antidumping duty order issued under section 736,

(ii) a finding issued under the Antidumping Act, 1921, or

(iii) a countervailing duty order issued under section 706 or section 303,

(B) before importation into the United States, such imported merchandise is completed or assembled in another foreign country from merchandise which—

(i) is subject to such order or finding, or

(ii) is produced in the foreign country with respect to which such order or finding applies,

(C) the difference between the value of such imported merchandise and the value of the merchandise described in subparagraph (B) is small, and

(D) the administering authority determines that action is appropriate under this paragraph to prevent evasion of such order or finding,

the administering authority, after taking into account any advice provided by the Commission under subsection (e), may include such imported merchandise within the scope of such order or finding at any time such order or finding is in effect.

(2) FACTORS TO CONSIDER.—In determining whether to include merchandise assembled or completed in a foreign country in a

countervailing or antidumping duty order or finding under paragraph (1), the administering authority shall take into account such factors as—

(A) the pattern of trade,

(B) whether the manufacturer or exporter of the merchandise described in paragraph (1)(B) is related to the person who uses the merchandise described in paragraph (1)(B) to assemble or complete in the foreign country the merchandise that is subsequently imported into the United States, and

(C) whether imports into the foreign country of the merchandise described in paragraph (1)(B) have increased after the issuance of such order or finding.

(c) MINOR ALTERATIONS OF MERCHANDISE.—

(1) IN GENERAL.—The class or kind of merchandise subject to—

(A) an investigation under this title,

(B) an antidumping duty order issued under section 736,

(C) a finding issued under the Antidumping Act, 1921, or

(D) a countervailing duty order issued under section 706 or section 303,

shall include articles altered in form or appearance in minor respects (including raw agricultural products that have undergone minor processing), whether or not included in the same tariff classification.

(2) EXCEPTION.—Paragraph (1) shall not apply with respect to altered merchandise if the administering authority determines that it would be unnecessary to consider the altered merchandise within the scope of the investigation, order, or finding.

(d) LATER-DEVELOPED MERCHANDISE.—

(1) IN GENERAL.—For purposes of determining whether merchandise developed after an investigation is initiated under this title or section 303 (hereafter in this paragraph referred to as the "later-developed merchandise") is within the scope of an outstanding antidumping or countervailing duty order issued under this title or section 303 as a result of such investigation, the administering authority shall consider whether—

(A) the later-developed merchandise has the same general physical characteristics as the merchandise with respect to which the order was originally issued (hereafter in this paragraph referred to as the "earlier product"),

(B) the expectations of the ultimate purchasers of the later-developed merchandise are the same as for the earlier product,

(C) the ultimate use of the earlier product and the later-developed merchandise are the same,

(D) the later-developed merchandise is sold through the same channels of trade as the earlier product, and

(E) the later-developed merchandise is advertised and displayed in a manner similar to the earlier product.

The administering authority shall take into account any advice provided by the Commission under subsection (e) before making a determination under this subparagraph.

(2) Exclusion from orders.—The administering authority may not exclude a later-developed merchandise from a countervailing or antidumping duty order merely because the merchandise—

(A) is classified under a tariff classification other than that identified in the petition or the administering authority's prior notices during the proceeding, or

(B) permits the purchaser to perform additional functions, unless such additional functions constitute the primary use of the merchandise and the cost of the additional functions constitute more than a significant proportion of the total cost of production of the merchandise.

(e) Commission Advice.—

(1) Notification to commission of proposed action.—Before making a determination—

(A) under subsection (a) with respect to merchandise completed or assembled in the United States (other than minor completion or assembly),

(B) under subsection (b) with respect to merchandise completed or assembled in other foreign countries, or

(C) under subsection (d) with respect to any later-developed merchandise which incorporates a significant technological advance or significant alteration of an earlier product,

with respect to an antidumping or countervailing duty order or finding as to which the Commission has made an affirmative injury determination, the administering authority shall notify the Commission of the proposed inclusion of such merchandise in such countervailing or antidumping order or finding. Notwithstanding any other provision of law, a decision by the administering authority regarding whether any merchandise is within a category for which notice is required under this paragraph is not subject to judicial review.

(2) Request for consultation.—After receiving notice under paragraph (1), the Commission may request consultations with the administering authority regarding the inclusion. Upon the request of the Commission, the administering authority shall consult with the Commission and any such consultation shall be completed within 15 days after the date of the request.

(3) Commission advice.—If the Commission believes, after consultation under paragraph (2), that a significant injury issue is presented by the proposed inclusion, the Commission may provide written advice to the administering authority as to whether the inclusion would be inconsistent with the affirmative determination of the Commission on which the order or finding is based. If the Commission decides to provide such written advice, it shall promptly notify the administering authority of its intention to do so, and must provide such advice within 60 days after the date of notification under paragraph (1). For purposes of formulating its advice with respect to merchandise

completed or assembled in the United States from parts or components produced in a foreign country, the Commission shall consider whether the inclusion of such parts or components taken as a whole would be inconsistent with its prior affirmative determination.

* * * * * * *

TRADE EXPANSION ACT OF 1962, AS AMENDED

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TITLE II—TRADE AGREEMENTS

* * * * * * *

CHAPTER 4—NATIONAL SECURITY

* * * * * * *

SEC. 232. SAFEGUARDING NATIONAL SECURITY.

(a) * * *

* * * * * * *

[(b) Upon request of the head of any department or agency, upon application of an interested party, or upon his own motion, the Secretary of Commerce (hereinafter referred to as the "Secretary") shall immediately make an appropriate investigation, in the course of which he shall seek information and advice from, and shall consult with, the Secretary of Defense and other appropriate officers of the United States, to determine the effects on the national security of imports of the article which is the subject of such request, application, or motion. The Secretary shall, if it is appropriate and after reasonable notice, hold public hearings or otherwise afford interested parties an opportunity to present information and advice relevant to such investigation. The Secretary shall report the findings of his investigation under this subsection with respect to the effect of the importation of such article in such quantities or under such circumstances upon the national security and, based on such findings, his recommendation for action or inaction under this section to the President within one year after receiving an application from an interested party or otherwise beginning an investigation under the subsection. If the Secretary finds that such article is being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security, he shall so advise the President and the President shall take such action, and for such time, as he deems necessary to adjust the imports of such article and its derivatives so that such imports will not threaten to impair the national security, unless the President determines that the article is not being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security.]

(b)(1)(A) Upon request of the head of any department or agency, upon application of an interested party, or upon his own motion, the Secretary of Commerce (hereafter in this section referred to as the "Secretary") shall immediately initiate an appropriate investigation

to determine the effects on the national security of imports of the article which is the subject of such request, application, or motion.

(B) The Secretary shall immediately provide notice to the Secretary of Defense of any investigation initiated under this section.

(2)(A) In the course of any investigation conducted under this subsection, the Secretary shall—

(i) consult with the Secretary of Defense regarding the methodological and policy questions raised in any investigation initiated under paragraph (1),

(ii) seek information and advice from, and consult with, appropriate officers of the United States, and

(iii) if it is appropriate and after reasonable notice, hold public hearings or otherwise afford interested parties an opportunity to present information and advice relevant to such investigation.

(B) Upon the request of the Secretary, the Secretary of Defense shall provide the Secretary an assessment of the defense requirements of any article that is the subject of an investigation conducted under this section.

(3)(A) By no later than the date that is 270 days after the date on which an investigation is initiated under paragraph (1) with respect to any article, the Secretary shall submit to the President a report on the findings of such investigation with respect to the effect of the importation of such article in such quantities or under such circumstances upon the national security and, based on such findings, the recommendations of the Secretary for action or inaction under this section. If the Secretary finds that such article is being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security, the Secretary shall so advise the President in such report.

(B) Any portion of the report submitted by the Secretary under subparagraph (A) which does not contain classified information or proprietary information shall be published in the Federal Register.

(4) The Secretary shall prescribe such procedural regulations as may be necessary to carry out the provisions of this subsection.

(c)(1)(A) Within 90 days after receiving a report submitted under subsection (b)(3)(A) in which the Secretary finds that an article is being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security, the President shall—

(i) determine whether the President concurs with the finding of the Secretary, and

(ii) if the President concurs, determine the nature and duration of the action that, in the judgment of the President, must be taken to adjust the imports of the article and its derivatives so that such imports will not threaten to impair the national security.

(B) If the President determines under subparagraph (A) to take action to adjust imports of an article and its derivatives, the President shall implement that action by no later than the date that is 15 days after the day on which the President determines to take action under subparagraph (A).

(2) By no later than the date that is 30 days after the date on which the President makes any determinations under paragraph (1),

the President shall submit to the Congress a written statement of the reasons why the President has decided to take action, or refused to take action, under paragraph (1). Such statement shall be included in the report published under subsection (e).

(3)(A) If—

(i) the action taken by the President under paragraph (1) is the negotiation of an agreement which limits or restricts the importation into, or the exportation to, the United States of the article that threatens to impair national security, and

(ii) either—

(I) no such agreement is entered into before the date that is 180 days after the date on which the President makes the determination under paragraph (1)(A) to take such action, or

(II) such an agreement that has been entered into is not being carried out or is ineffective in eliminating the threat to the national security posed by imports of such article,

the President shall take such other actions as the President deems necessary to adjust the imports of such article so that such imports will not threaten to impair the national security. The President shall publish in the Federal Register notice of any additional actions being taken under this section by reason of this subparagraph.

(B) If—

(i) clauses (i) and (ii) of subparagraph (A) apply, and

(ii) the President determines not to take any additional actions under this subsection,

the President shall publish in the Federal Register such determination and the reasons on which such determination is based.

[(c)**]** *(d)* For the purposes of this section, the Secretary and the President shall, in the light of the requirements of national security and without excluding other relevant factors, give consideration to domestic production needed for projected national defense requirements, the capacity of domestic industries to meet such requirements, existing and anticipated availabilities of the human resources, products, raw materials, and other supplies and services essential to the national defense, the requirements of growth of such industries and such supplies and services including the investment, exploration, and development necessary to assure such growth, and the importation of goods in terms of their quantities, availabilities, character, and use as those affect such industries and the capacity of the United States to meet national security requirements. In the administration of this section, the Secretary and the President shall further recognize the close relation of the economic welfare of the Nation to our national security, and shall take into consideration the impact of foreign competition on the economic welfare of individual domestic industries; and any substantial unemployment, decrease in revenues of government, loss of skills or investment, or other serious effects resulting from the displacement of any domestic products by excessive imports shall be considered, without excluding other factors, in determining whether such weakening of our internal economy may impair the national security.

[(d) A report shall be made and published upon the disposition of each request, application, or motion under subsection (b). The

Secretary shall publish procedural regulations to give effect to the authority conferred on him by subsection (b).]

(e)(1) Upon the disposition of each request, application, or motion under subsection (b), the Secretary shall submit to the Congress, and publish in the Federal Register, a report on such disposition.

(2) The President shall submit to the Congress an annual report on the operation of the provisions of this section.

[(e)]*(f)*(1) An action taken by the President under [subsection (b)] *subsection (c)* to adjust imports of petroleum or petroleum products shall cease to have force and effect upon the enactment of a disapproval resolution, provided for in paragraph (2), relating to that action.

(2)(A) This paragraph is enacted by the Congress—

(i) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedures to be followed in that House in the case of disapproval resolutions and such procedures supersede other rules only to the extent that they are inconsistent therewith; and

(ii) with the full recognition of the constitional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as any other rule of that House.

(B) For purposes of this subsection, the term "disapproval resolution" means only a joint resolution of either House of Congress the matter after the resolving clause of which is as follows: "That the Congress disapproves the action taken under section 232 of the Trade Expansion Act of 1962 with respect to petroleum imports under ———— dated ————.", the first blank space being filled with the number of the proclamation, Executive order or other Executive act issued under the authority of [subsection (b)] *subsection (c)* of such section 232 for purposes of adjusting imports of petroleum or petroleum products and the second blank being filled with the appropriate date.

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SEC. 242. INTERAGENCY TRADE ORGANIZATION.

[(a) The President shall establish an interagency organization to assist him in carrying out the functions vested in him by this title and section 201, 202, and 203 of the Trade Act of 1974. Such organization shall, in addition to the United States Trade Representative, be composed of the heads of such departments and of such other officers as the President shall designate. It shall meet at such times and with respect to such matters as the President or the chairman of the organization shall direct. The organization may invite the participation in its activities of any agency not represented in the organization when matters of interest to such agency are under consideration.]

(a)(1) The President shall establish an interagency organization.

(2) The functions of the organization are—

(A) to assist, and make recommendations to, the President in carrying out the functions vested in him by the trade laws and to advise the United States Trade Representative (hereinafter in

this section referred to as the "Trade Representative") in carrying out the functions set forth in section 141 of the Trade Act of 1974;

(B) to assist the President, and advise the Trade Representative, with respect to the development and implementation of the international trade policy objectives of the United States; and

(C) to advise the President and the Trade Representative with respect to the relationship between the international trade policy objectives of the United States and other major policy areas which may significantly affect the overall international trade policy and trade competitiveness of the United States.

(3) The interagency organization shall be composed of the following:

(A) The Trade Representative, who shall be chairperson.
(B) The Secretary of Commerce.
(C) The Secretary of State.
(D) The Secretary of the Treasury.
(E) The Secretary of Agriculture.
(F) The Secretary of Labor.

The Trade Representative may invite representatives from other agencies, as appropriate, to attend particular meetings if subject matters of specific functional interest to such agencies are under consideration. It shall meet at such times and with respect to such matters as the President or the Chairman shall direct.

(b) In assisting the President, the organization shall—

(1) make recommendations to the President on basic policy issues arising in the administration of the trade agreements program,

(2) make recommendations to the President as to what action, if any, he should take on reports submitted to him by the United States International Trade Commission under section 201(d) of the Trade Act of 1974,

(3) advise the President of the results of hearings held pusuant to section 302(b)(2) of the Trade Act of 1974, and recommend appropriate action with respect thereto, and

(4) perform such other functions with respect to the trade agreements program as the President may from time to time designate.

In carrying out its functions under this subsection, the organization shall take into account the advice of the congressional advisers and private sector advisory committees, as well as that of any committee or other body established to advise the department, agency, or office which a member of the organization heads.

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TARIFF CLASSIFICATION ACT OF 1962

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TITLE II—ADMINISTRATIVE AND SAVING PROVISIONS

[SEC. 201. The Commission is authorized to issue, at appropriate intervals, and to keep up to date, a publication containing current tariff schedules and related matters, including such matter as may be needed for reporting statistics.]

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TITLE I—NEGOTIATING AND OTHER AUTHORITY

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CHAPTER 2—OTHER AUTHORITY

SEC. 121. STEPS TO BE TAKEN TOWARD GATT REVISION; AUTHORIZATION OF APPROPRIATIONS FOR GATT.

[(a) The President shall, as soon as practicable, take such action as may be necessary to bring trade agreements heretofore entered into, and the application thereof, into conformity with principles promoting the development of an open, nondiscriminatory, and fair world economic system. The action and principles referred to in the preceding sentence include, but are not limited to, the following—

[(1) the revision of decisionmaking procedures in the General Agreement on Tariffs and Trade (hereinafter in this subsection referred to as "GATT") to more nearly reflect the balance of economic interests,

[(2) the revision of article XIX of the GATT into a truly international safeguard procedure which takes into account all forms of import restraints countries use in response to injurious competition or threat of such competition,

[(3) the extension of GATT articles to conditions of trade not presently covered in order to move toward more fair trade practices,

[(4) the adoption of international fair labor standards and of public petition and confrontation procedures in the GATT,

[(5) the revision of GATT articles with respect to the treatment of border adjustments for internal taxes to redress the disadvantage to countries relying primarily on direct rather than indirect taxes for revenue needs,

[(6) the revision of the balance-of-payments provision in the GATT articles so as to recognize import surcharges as the preferred means by which industrial countries may handle balance-of-payments deficits insofar as import restraint measures are required,

[(7) the improvement and strengthening of the provisions of GATT and other international agreements governing access to supplies of food, raw materials, and manufactured or semi-manufactured products, including rules and procedures governing the imposition of export controls, the denial of fair and equitable access to such supplies, and effective consultative procedures on problems of supply shortages,

[(8) the extension of the provisions of GATT or other international agreements to authorize multilateral procedures by contracting parties with respect to member or nonmember countries which deny fair and equitable access to supplies of food, raw materials, and manufactured or semi-manufactured products, and thereby substantially injure the international community, [(9) any revisions necessary to establish procedures for regular consultation among countries and instrumentalities with respect to international trade and procedures to adjudicate commercial disputes among such countries or instrumentalities,

[(10) any revisions necessary to apply the principles of reciprocity and nondiscrimination, including the elimination of special preferences and reverse preferences, to all aspects of international trade,

[(11) any revisions necessary to define the forms of subsidy to industries producing products for export and the forms of subsidy to attract foreign investment which are consistent with an open, nondiscriminatory, and fair system of international trade, and

[(12) consistent with the provisions of section 107, any revisions necessary to establish within the GATT an international agreement on articles (include footwear), including the creation of regular and institutionalized mechanisms for the settlement of disputes, and of a surveillance body to monitor all international shipments in such articles.

[(b) The President shall, to the extent feasible, enter into agreements with foreign countries or instrumentalities to establish the principles described in subsection (a) with respect to international trade between the United States and such countries or instrumentalities.

[(c) If the President enters into a trade agreement which establishes rules or procedures, including those set forth in subsection (a), promoting the development of an open, nondiscriminatory, and fair world economic system and if the implementation of such agreement will change any provision of Federal law (including a material change in an administrative rule), such agreement shall take effect with respect to the United States only if the appropriate implementing legislation is enacted by the Congress unless implementation of such agreement is effected pursuant to authority delegated by Congress. Such trade agreement may be submitted to the Congress for approval in accordance with the procedures of section 151. Nothing in this section shall be construed as prior approval of any legislative necessary to implement a trade agreement entered into under this section.]

[(d)] There are authorized to be appropriated annually such sums as may be necessary for the payment by the United States of its share of the expenses of the Contracting Parties to the General Agreement on Tariffs and Trade. This authorization does not imply approval or disapproval by the Congress of all articles of the General Agreement on Tariffs and Trade.

* * * * * * *

SEC. 123. COMPENSATION AUTHORITY.

[(a) Whenever any action has been taken under section 203 to increase or impose any duty or other import restriction, the President—

[(1) may enter into trade agreements with foreign countries of instrumentalities for the purpose of granting new concessions as compensation in order to maintain the general level of reciprocal and mutually advantageous concessions; and

[(2) may proclaim such modification or continuance of any existing duty, or such continuance of existing duty-free or excise treatment, as he determines to be required or appropriate to carry out any such agreement.]

(a) Whenever—

(1) any action taken under chapter 1 of title II or chapter 1 of title III; or

(2) any judicial or administrative tariff reclassification that becomes final after the date of the enactment of the Omnibus Trade and Competitiveness Act of 1988;

increases or imposes any duty or other import restriction, the President—

(A) may enter into trade agreements with foreign countries or instrumentalities for the purpose of granting new concessions as compensation in order to maintain the general level of reciprocal and mutually advantageous concessions; and

(B) may proclaim such modification or continuance of any existing duty, or such continuance of existing duty-free or excise treatment, as he determines to be required or appropriate to carry out any such agreement.

(b)(1) * * *

* * * * * * *

(2) Where the rate of duty in effect at any time is an intermediate stage under [section 109] *section 1102(a) of the Omnibus Trade and Competitiveness Act of 1988,* the proclamation made pursuant to subsection (a) may provide for the reduction of each rate of duty at each such stage proclaimed under [section 101] *such section 1102(a)* by not more than 30 percent of such rate of duty, and may provide for a final rate of duty which is not less than 70 percent of the rate of duty proclaimed as the final stage under [section 101] *such section 1102(a).*

* * * * * * *

(4) Any concessions granted under subsection (a)(1) shall be reduced and terminated according to substantially the same time schedule for reduction applicable to the relevant [import relief under section 302(h)] *action under section 203(e) and 204.*

* * * * * * *

(d) Notwithstanding the provisions of subsection (a), the authority delegated under [section 101] *section 1102 of the Omnibus Trade and Competitiveness Act of 1988* shall be used for the purpose of granting new concessions as compensation within the meaning of this section until such authority terminates.

(e) The provisions of this section shall apply by reason of action taken under chapter 1 of title III only if the President determines that action authorized under this section is necessary or appropriate to meet the international obligations of the United States.

* * * * * * *

SEC. 127. RESERVATION OF ARTICLES FOR NATIONAL SECURITY OR OTHER REASONS.

(a) * * *

* * * * * * *

[(c) The President shall submit to the Congress an annual report on section 232 of the Trade Expansion Act of 1962. Within 60 days after he takes any action under such section 232, the President shall report to the Congress the action taken and the reasons therefor.]

* * * * * * *

SEC. 128. MODIFICATION AND CONTINUANCE OF TREATMENT WITH RESPECT TO DUTIES ON HIGH TECHNOLOGY PRODUCTS.

(a) * * *

* * * * * * *

[(b) The President shall exercise his authority under subsection (a) only with respect to the following items listed in the Tariff Schedules of the United States (19 U.S.C. 1202):

[(1) Transistors (provided for in item 587.70, part 5, schedule 6).

[(2) Diodes and rectifiers (provided for in item 687.72, part 5, schedule 6).

[(3) Monolithic integrated circuits (provided for in item 687.74, part 5, schedule 6).

[(4) Other integrated circuits (provided for in item 687.77, part 5, schedule 6).

[(5) Other components (provided for in item 687.81, part 5, schedule 6).

[(6) Parts of semiconductors (provided for in item 687.85, part 5, schedule 6).

[(7) Parts of automatic data-processing machines and units thereof (provided for in item 676.52, part 4G, schedule 6) other than parts incorporating a cathode ray tube.]

(b) The President shall exercise his authority under subsection (a) of this section only with respect to the following subheadings listed in the Harmonized Tariff Schedule of the United States—

(1) transistors (provided for in subheadings 8541.21.00, 8541.29.00, and 8541.40.70);

(2) diodes and rectifiers (provided for in subheadings 8541.10.00, 8541.30.00, and 8541.40.60);

(3) monolithic integrated circuits (provided for in subheadings 8542.11.00 and 8542.19.00);

(4) other integrated circuits (provided for in subheading 8542.20.00);

(5) other components (provided for in subheading 8541.50.00);

(6) parts of semiconductors (provided for in subheadings 8541.90.00 and 8542.90.00);

(7) units of automatic data processing machines (provided for in subheadings 8471.92.20, 8471.92.30, 8471.92.70, 8471.92.80, 8471.93.10, 8471.93.15, 8471.93.30, 8471.93.50, 8471.99.15, and 8471.99.60) and parts (provided for in subheading 8473.30.40), all the foregoing not incorporating a cathode ray [tube.] tube; and

(8) Digital processing units for automatic data processing machines, unhoused, consisting of a printed circuit (single or multiple) with one or more electronic integrated circuits or other semiconductor devices mounted directly thereon, certified as units designed for use other than in an automatic data processing machine of subheading 8471.20 (provided for in subheading 8471.91).

CHAPTER 3—HEARINGS AND ADVICE CONCERNING NEGOTIATIONS

[SEC. 131. INTERNATIONAL TRADE COMMISSION ADVICE.

[(a) In connection with any proposed trade agreement under chapter 1 or section 123 or 124, the President shall from time to time publish and furnish the International Trade Commission (hereafter in this section referred to as the "Commission") with lists of articles which may be considered for modification or continuance of United States duties, continuance of United States duty-free or excise treatment, or additional duties. In the case of any article with respect to which consideration may be given to reducing or increasing the rate of duty, the list shall specify the provision of this title pursuant to which such consideration may be given.

[(b) Within 6 months after receipt of such a list or, in the case of a list submitted in connection with a trade agreement authorized under section 123, within 90 days after receipt of such list, the Commission shall advise the President with respect to each article of its judgment as to the probable economic effect of modifications of duties on industries producing like or directly competitive articles and on consumers, so as to assist the President in making an informed judgment as to the impact which might be caused by such modifications on United States manufacturing, agriculture, mining, fishing, labor, and consumers. Such advice may include in the case of any article the advice of the Commission as to whether any reduction in the rate of duty should take place over a longer period than the minimum periods provided by section 109(a).

[(c) In addition, in order to assist the President in his determination of whether to enter into any agreement under section 102, the Commission shall make such investigations and reports as may be requested by the President, including, where feasible, advice as to the probable economic effects of modifications of any barrier to (or other distortion of) international trade on domestic industries and purchasers and on prices and quantities of articles in the United States.

[(d) In preparing its advice to the President under this section, the Commission shall, to the extent practicable—

[(1) investigate conditions, causes, and effects relating to competition between the foreign industries producing the articles in question and the domestic industries producing the like or directly competitive articles;

[(2) analyze the production, trade, and consumption of each like or directly competitive article, taking into consideration employment, profit levels, and use of productive facilities with respect to the domestic industries concerned, and such other economic factors in such industries as it considers relevant, including prices, wages, sales, inventories, patterns of demand, capital investment, obsolescence of equipment, and diversification of production;

[(3) describe the probable nature and extent of any significant change in employment, profit levels, and use of productive facilities, and such other conditions as it deems relevant in the domestic industries concerned which it believes such modifications would cause; and

[(4) make special studies (including studies of real wages paid in foreign supplying countries), whenever deemed to be warranted, of particular proposed modifications affecting United States manufacturing, agriculture, mining, fishing, labor, and consumers, utilizing to the fullest extent practicable United States Government facilities abroad and appropriate personnel of the United States.

[(e) In preparing its advice to the President under this section, the Commission shall, after reasonable notice, hold public hearings.]

[SEC. 132. ADVICE FROM DEPARTMENTS AND OTHER SOURCES.

[Before any trade agreement is entered into under chapter 1 or section 123 or 124, the President shall seek information and advice with respect to such agreement from the Departments of Agriculture, Commerce, Defense, Interior, Labor, State and the Treasury, from the Special Representative for Trade Negotiations, and from such other sources as he may deem appropriate.]

[SEC. 133. PUBLIC HEARINGS.

[(a) In connection with any proposed trade agreement under chapter 1 or section 123 or 124, the President shall afford an opportunity for any interested person to present his views concerning any article on a list published pursuant to section 131, any article which should be so listed, any concession which should be sought by the United States, or any other matter relevant to such proposed trade agreement. For this purpose, the President shall designate any agency or an interagency committee which shall, after reasonable notice, hold public hearings and prescribe regulations governing the conduct of such hearings.

[(b) The organization holding such hearings shall furnish the President with a summary thereof.]

[SEC. 134. PREREQUISITES FOR OFFERS.

[In any negotiations seeking an agreement under chapter 1 or section 123 or 124, the President may make an offer for the modification or continuance of any United States duty, import restrictions, or barriers to (or other distortions of) international trade, the continuance of United States duty-free or excise treatment, or the imposition of additional duties, import restriction, or other barrier to (or other distortion of) international trade, with respect to any article only after he has received a summary of the hearings at which an opportunity to be heard with respect to such article has been afforded under section 133. In addition, the President may make an offer for the modification or continuance of any United States duty, the continuance of United States duty-free or excise treatment, or the imposition of additional duties, with respect to any article included in a list published and furnished under section 131(a), only after he has received advice concerning such article from the International Trade Commission under section 131(b), or after the expiration of the 6-month or 90-day period provided for in that section, as appropriate, whichever first occurs.]

SEC. 131. ADVICE FROM INTERNATIONAL TRADE COMMISSION.

(a) Lists of Articles Which May Be Considered for Action.—

(1) In connection with any proposed trade agreement under section 123 of this Act or section 1102(a) or (c) of the Omnibus Trade and Competitiveness Act of 1988, the President shall from time to time publish and furnish the International Trade Commission (hereafter in this section referred to as the "Commission") with lists of articles which may be considered for modification or continuance of United States duties, continuance of United States duty-free or excise treatment, or additional duties. In the case of any article with respect to which consideration may be given to reducing or increasing the rate of duty, the list shall specify the provision of this subchapter under which such consideration may be given.

(2) In connection with any proposed trade agreement under section 1102 (b) or (c) of the Omnibus Trade and Competitiveness Act of 1988, the President may from time to time publish and furnish the Commission with lists of nontariff matters which may be considered for modification.

(b) Advice to President by Commission.—Within 6 months after receipt of a list under subsection (c) shall be exempt from the requirements of subsections (a) or, in the case of a list submitted in connection with a trade agreement, within 90 days after receipt of such list, the Commission shall advise the President, with respect to each article or nontariff matter, of its judgment as to the probable economic effect of modification of the tariff or nontariff measure on industries producing like or directly competitive articles and on consumers, so as to assist the President in making an informed judgment as to the impact which might be caused by such modifications on United States interests, such as sectors involved in manufacturing, agriculture, mining, fishing, services, intellectual property, investment, labor, and consumers. Such advice may include in the case of any article the advice of the Commission as to whether any reduction in the rate of duty should take place over a longer period of time than the minimum period provided for in section 1102(a)(3)(A).

(c) Additional Investigations and Reports Requested by the President or the Trade Representative.—In addition, in order to assist the President in his determination whether to enter into any agreement under section 123 of this Act or section 1102 of the Omnibus Trade and Competitiveness Act of 1988, or how to develop trade policy, priorities or other matters (such as priorities for actions to improve opportunities in foreign markets), the Commission shall make such investigations and reports as may be requested by the President or the United States Trade Representative on matters such as effects of modification of any barrier to (or other distortion

of) international trade on domestic workers, industries or sectors, purchasers, prices and quantities of articles in the United States.

(d) Commission Steps in Preparing Its Advice to the President.—In preparing its advice to the President under this section, the Commission shall to the extent practicable—

(1) investigate conditions, causes, and effects relating to competition between the foreign industries producing the articles or services in question and the domestic industries producing the like or directly competitive articles or services;

(2) analyze the production, trade, and consumption of each like or directly competitive article or service, taking into consideration employment, profit levels, and use of productive facilities with respect to the domestic industries concerned, and such other economic factors in such industries as it considers relevant, including prices, wages, sales, inventories, patterns of demand, capital investment, obsolescence of equipment, and diversification of production;

(3) describe the probable nature and extent of any significant change in employment, profit levels, and use of productive facilities; the overall impact of such or other possible changes on the competitiveness of relevant domestic industries or sectors; and such other conditions as it deems relevant in the domestic industries or sectors concerned which it believes such modifications would cause; and

(4) make special studies (including studies of real wages paid in foreign supplying countries), whenever deemed to be warranted, of particular proposed modifications affecting United States manufacturing, agriculture, mining, fishing, labor, consumers, services, intellectual property and investment, using to the fullest extent practicable United States Government facilities abroad and appropriate personnel of the United States.

(e) Public Hearing.—In preparing its advice to the President under this section, the Commission shall, after reasonable notice, hold public hearings.

SEC. 132. ADVICE FROM EXECUTIVE DEPARTMENTS AND OTHER SOURCES.

Before any trade agreement is entered into under section 123 of this Act or section 1102 of the Omnibus Trade and Competitiveness Act of 1988, the President shall seek information and advice with respect to such agreement from the Departments of Agriculture, Commerce, Defense, Interior, Labor, State and the Treasury, from the United States Trade Representative, and from such other sources as he may deem appropriate. Such advice shall be prepared and presented consistent with the provisions of Reorganization Plan Number 3 of 1979, Executive Order Number 12188 and section 141(c).

SEC. 133. PUBLIC HEARINGS.

(a) Opportunity for Presentation of Views.—In connection with any proposed trade agreement under section 123 of this Act or section 1102 of the Omnibus Trade and Competitiveness Act of 1988, the President shall afford an opportunity for any interested person to present his views concerning any article on a list published under section 131, any matter or article which should be so listed, any concession which should be sought by the United States, or any other

matter relevant to such proposed trade agreement. For this purpose, the President shall designate an agency or an interagency committee which shall, after reasonable notice, hold public hearings and prescribe regulations governing the conduct of such hearings. When appropriate, such procedures shall apply to the development of trade policy and priorities.

(b) SUMMARY OF HEARINGS.—The organization holding such hearing shall furnish the President with a summary thereof.

SEC. 134. PREREQUISITES FOR OFFERS.

(a) In any negotiation seeking an agreement under section 123 of this Act or section 1102 of the Omnibus Trade and Competitiveness Act of 1988, the President may make a formal offer for the modification or continuance of any United States duty, import restrictions, or barriers to (or other distortions of) international trade, the continuance of United States duty-free or excise treatment, or the imposition of additional duties, import restrictions, or other barrier to (or other distortion of) international trade including trade in services, foreign direct investment and intellectual property as covered by this title, with respect to any article or matter only after he has received a summary of the hearings at which an opportunity to be heard with respect to such article has been afforded under section 133. In addition, the President may make an offer for the modification or continuance of any United States duty, the continuance of United States duty-free or excise treatment, or the imposition of additional duties, with respect to any article included in a list published and furnished under section 131(a), only after he has received advice concerning such article from the Commission under section 131(b), or after the expiration of the 6-month or 90-day period provided for in that section, as appropriate, whichever first occurs.

(b) In determining whether to make offers described in subsection (a) in the course of negotiating any trade agreement under section 1102 of the Omnibus Trade and Competitiveness Act of 1988, and in determining the nature and scope of such offers, the President shall take into account any advice or information provided, or reports submitted, by—

(1) the Commission;

(2) any advisory committee established under section 135; or

(3) any organization that holds public hearings under section 133;

with respect to any article, or domestic industry, that is sensitive, or potentially sensitive, to imports.

[SEC. 135. ADVICE FROM PRIVATE OR PUBLIC SECTOR.

[(a) The President shall seek information and advice from representative elements of the private sector and the non-Federal governmental sector with respect to negotiating objectives and bargaining positions before entering into a trade agreement referred to in section 101 or 102, with respect to the operation of any trade agreement once entered into, and with respect to other matters arising in connection with the administration of the trade policy of the United States.

[(b)(1) The President shall establish an Advisory Committee for Trade Negotiations to provide overall policy advice on matters referred to in subsection (a). The Committee shall be composed of not more than 45 individuals, and shall include representatives of government, labor, industry, agriculture, small business, service industries, retailers, consumer interests, and the general public.

[(2) The Committee shall meet at the call of the United States Trade Representative. The chairman of the Committee shall be elected by the Committee from among its members. Members of the Committee shall be appointed by the President for a period of 2 years and may be reappointed for one or more additional periods.

[(3) The United States Trade Representative shall make available to the Committee such staff, information, personnel, and administrative services and assistance as it may reasonably require to carry out its activities.

[(c)(1) The President may, on his own initiative, or at the request of organizations representing industry, labor, agriculture, or services, establish general policy advisory committees for industry, labor, agriculture, or services, respectively, to provide general policy advice on matters referred to in subsection (a). Such committees shall, insofar as is practicable, be representative of all industry, labor, agricultural, and service interests, respectively, including small business interests, and shall be organized by the United States Trade Representative and the Secretary of Commerce, Labor, or Agriculture, as appropriate.

[(2) The President shall establish such sectoral or functional advisory committees as may be appropriate. Such committee shall, insofar as is practicable, be representative of all industry, labor, agricultural, or service interests (including small business interests) in the sector or functional areas concerned. In organizing such committees, the United States Trade Representative and the Secretary of Commerce, Labor, or Agriculture, as appropriate, (A) shall consult with interested private organizations, and (B) shall take into account such factors as patterns of actual and potential competition between United States industry and agriculture, and foreign enterprise in international trade, the character of the nontariff barriers and other distortions affecting such competition, the necessity for reasonable limits on the number of such advisory committees, the necessity that each committee be reasonably limited in size, and that, in the case of each sectoral committee, the product lines covered by each committee be reasonably related.

[(3) The President—

[(A) may establish policy advisory committees representing non-Federal governmental interests to provide, where the President finds it necessary, policy advice—

[(i) on matters referred to in subsection (a), and

[(ii) with respect to implementation of trade agreements and

[(B) shall include as members of committees established under subparagraph (A) representatives of non-Federal governmental interests if he finds such inclusion appropriate after consultation by the United States Trade Representative with such representatives.

[(d) Committees established under subsection (c) shall meet at the call of the United States Trade Representative and the Secretary of Agriculture, Commerce, or Labor, as appropriate, to provide policy advice, technical advice and information, and advice on other factors relevant to the matters referred to in subsection (a).

[(e) The Advisory Committee for Trade Negotiations, each appropriate policy advisory committee, and each sector or functional advisory committee, if the sector or area which such committee represents is affected, shall meet at the conclusion of negotiations for each trade agreement entered into under this Act, to provide to the President, to Congress, and to the United States Trade Representative a report on such agreement. The report of the Advisory Committee for Trade Negotiations and each appropriate policy advisory committee shall include an advisory opinion as to whether and to what extent the agreement promotes the economic interests of the United States and the report of the appropriate sector or functional area committee shall include an advisory opinion as to whether the agreement provides for equity and reciprocity within the sector or within the functional area.

[(f) The provisions of the Federal Advisory Committee Act (Public Law 92-463) shall apply—

[(1) to the Advisory Committee for Trade Negotiations established pursuant to subsection (b); and

[(2) to all other advisory committees which may be established pursuant to subsection (c); except that the meetings of advisory committees established under subsection (c) shall be exempt from the requirements of subsections (a) and (b) of section 10 and section 11 of the Federal Advisory Committee Act (relating to open meetings, public notice, public participation, and public availability of documents), whenever and to the extent it is determined by the President or his designee that such meetings will be concerned with matters the disclosure of which would seriously compromise the Government's negotiating objectives or bargaining positions with respect to matters referred to is subsection (a).

[(g)(1)(A) Trade secrets and commercial or financial information which is privileged or confidential, submitted in confidence by the private or non-Federal government sector to officers or employees of the United States in connection with trade negotiations, shall not be disclosed to any person other than to—

[(i) officers and employees of the United States designated by the United States Trade Representative, and

[(ii) members of the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate who are accredited as official advisers under section 161 (a) or are designated by the chairman of either such committee under section 161(b)(2), and members of the staff of either such committee designated by the chairman under section 161(b)(2),

for use in connection with negotiation of matters referred to in subsection (a).

[(B) Information, other than that described in paragraph (A), and advice submitted in confidence by the private or non-Federal government sector to officers or employees of the United States, to the Advisory Committee for Trade Negotiations or to any advisory committee established under subsection (c), in connection with matters referred to in subsection (a), shall not be disclosed to any person other than—

[(i) the individuals described in subparagraph (A), and

[(ii) the appropriate advisory committees established under this section.

[(2) Information submitted in confidence by officers or employees of the United States to the Advisory Committee for Trade Negotiations, or to any advisory committee established under subsection (c), shall not be disclosed other than in accordance with rules issued by the United States Trade Representative and the Secretary of Commerce, Labor or Agriculture, as appropriate, after consultation with the relevant advisory committees established under subsection (c). Such rules shall define the categories of information which require restricted or confidential handling by such committee considering the extent to which public disclosure of such information can reasonably be expected to prejudice United States negotiating objectives. Such rules shall, to the maximum extent feasible, permit meaningful consultations by advisory committee members with persons, affected by matters referred to in subsection (a).

[(h) The United States Trade Representative, and the Secretary of Commerce, Labor, or Agriculture, as appropriate, shall provide such staff, information, personnel, and administrative services and assistance to advisory committees established pursuant to subsection (c) as such committees may reasonably require to carry out their activities.

[(i) It shall be the responsibility of the United States Trade Representative, in conjunction with the Secretary of Commerce, Labor, or Agriculture, as appropriate, to adopt procedures for consultation with and obtaining information and advice from the advisory committees established pursuant to subsection (c) on a continuing and timely basis. Such Consultation shall include the provision of information to each advisory committee as to (1) significant issues and developments, and (2) overall negotiating objectives and positions of the United States and other parties with respect to matters referred to in subsection (a). The United States Trade Representative shall not be bound by the advice or recommendations of such advisory committees but the United States Trade Representative shall inform the advisory committees of failures to accept such advice or recommendations, and the President shall include in his statement to the Congress, required by section 163, a report by the United States Trade Representative on consultation with such committees, issues involved in such consultation, and the reasons for not accepting advice or recommendations.

[(j) In addition to any advisory committee established pursuant to this section, the President shall provide adequate, timely and continuing opportunity for the submission on an informal and, if such information is submitted under the provisions of subsection (g), confidential basis by private or non-Federal government organizations or groups, representing government, labor, industry, agriculture, small business, service industries, consumer interests, and others, of statistics, data, and other trade information, as well as policy recommendations, pertinent to the negotiation of any matters referred to in subsection (a).

[(k) Nothing contained in this section shall be construed to authorize or permit any individual to participate directly in any negotiation of any matters referred to in subsection (a). To the maximum extent practicable, the members of the committees established under subsections (b) and (c), and other appropriate parties, shall be informed and consulted before and during any such negotiations and may be permitted to participate in international meetings to the extent the head of the United States delegation deems appropriate, but may not speak or negotiate for the United States.

[(l) The provisions of title XVIII of the Food and Agriculture Act of 1977 shall not apply to an advisory committee established under subsection (c).

[(m) NON-FEDERAL GOVERNMENT DEFINED.—The term "non-Federal government" means—

[(1) any State, territory, or possession of the United States, or the District of Columbia, or any political subdivision thereof, or

[(2) any agency or instrumentality of any entity described in paragraph (1).]

SEC. 135. INFORMATION AND ADVICE FROM PRIVATE AND PUBLIC SECTORS.

(a) IN GENERAL.—

(1) The President shall seek information and advice from representative elements of the private sector and the non-Federal governmental sector with respect to—

(A) negotiating objectives and bargaining positions before entering into a trade agreement under this title or section 1102 of the Omnibus Trade and Competitiveness Act of 1988;

(B) the operation of any trade agreement once entered into; and

(C) other matters arising in connection with the development, implementation, and administration of the trade policy of the United States, including those matters referred to in Reorganization Plan Number 3 of 1979 and Executive Order Numbered 12188, and the priorities for actions thereunder.

To the maximum extent feasible, such information and advice on negotiating objectives shall be sought and considered before the commencement of negotiations.

(2) The President shall consult with representative elements of the private sector and the non-Federal governmental sector on the overall current trade policy of the United States. The consultations shall include, but are not limited to, the following elements of such policy:

(A) The principal multilateral and bilateral trade negotiating objectives and the progress being made toward their achievement.

(B) The implementation, operation, and effectiveness of recently concluded multilateral and bilateral trade agreements and resolution of trade disputes.

(C) The actions taken under the trade laws of the United States and the effectiveness of such actions in achieving trade policy objectives.

(D) Important developments in other areas of trade for which there must be developed a proper policy response.

(3) The President shall take the advice received through consultation under paragraph (2) into account in determining the importance which should be placed on each major objective and negotiating position that should be adopted in order to achieve the overall trade policy of the United States.

(b) ADVISORY COMMITTEE FOR TRADE POLICY AND NEGOTIATIONS.—

(1) The President shall establish an Advisory Committee for Trade Policy and Negotiations to provide overall policy advice on matters referred to in subsection (a). The committee shall be composed of not more than 45 individuals and shall include representatives of non-Federal governments, labor, industry, agriculture, small business, service industries, retailers, and consumer interests. The committee shall be broadly representative of the key sectors and groups of the economy, particularly with respect to those sectors and groups which are affected by trade. Members of the committee shall be recommended by the United States Trade Representative and appointed by the President for a term of 2 years. An individual may be reappointed to committee for any number of terms. Appointments to the Committee shall be made without regard to political affiliation.

(2) The committee shall meet as needed at the call of the United States Trade Representative or at the call of two-thirds of the members of the committee. The chairman of the committee shall be elected by the committee from among its members.

(3) The United States Trade Representative shall make available to the committee such staff, information, personnel, and administrative services and assistance as it may reasonably require to carry out its activities.

(c) GENERAL POLICY, SECTORAL, OR FUNCTIONAL ADVISORY COMMITTEES.—

(1) The President may establish individual general policy advisory committees for industry, labor, agriculture, services, investment, defense, and other interests, as appropriate, to provide general policy advice on matters referred to in subsection (a). Such committees shall, insofar as is practicable, be representative of all industry, labor, agricultural, service, investment, defense, and other interests, respectively, including small business interests, and shall be organized by the United States Trade Representative and the Secretaries of Commerce, Defense, Labor, Agriculture, the Treasury, or other executive departments, as appropriate. The members of such committees shall be appointed by the United States Trade Representative in consultation with such Secretaries.

(2) The President shall establish such sectoral or functional advisory committees as may be appropriate. Such committees shall, insofar as is practicable, be representative of all industry, labor, agricultural, or service interests (including small business interests) in the sector or functional areas concerned. In organizing such committees, the United States Trade Representative and the Secretaries of Commerce, Labor, Agriculture, the Treasury, or other executive departments, as appropriate, shall—

(A) consult with interested private organizations; and

(B) take into account such factors as—

(i) patterns of actual and potential competition between United States industry and agriculture and foreign enterprise in international trade,

(ii) the character of the nontariff barriers and other distortions affecting such competition,

(iii) the necessity for reasonable limits on the number of such advisory committees,

(iv) the necessity that each committee be reasonably limited in size, and

(v) in the case of each sectoral committee, that the product lines covered by each committee be reasonably related.

(3) The President—

(A) may, if necessary, establish policy advisory committees representing non-Federal governmental interests to provide policy advice—

(i) on matters referred to in subsection (a), and

(ii) with respect to implementation of trade agreements, and

(B) shall include as members of committees established under subparagraph (A) representatives of non-Federal governmental interests if he finds such inclusion appropriate after consultation by the United States Trade Representative with such representatives.

(4) Appointments to each committee established under paragraph (1), (2), or (3) shall be made without regard to political affiliation.

(d) POLICY, TECHNICAL, AND OTHER ADVICE AND INFORMATION.—Committees established under subsection (c) shall meet at the call of the United States Trade Representative and the Secretaries of Agriculture, Commerce, Labor, Defense, or other executive departments, as appropriate, to provide policy advice, technical advice and information, and advice on other factors relevant to the matters referred to in subsection (a).

(e) MEETING OF ADVISORY COMMITTEES AT CONCLUSION OF NEGOTIATIONS.—

(1) The Advisory Committee for Trade Policy and Negotiations, each appropriate policy advisory committee, and each sectoral or functional advisory committee, if the sector or area which such committee represents is affected, shall meet at the conclusion of negotiations for each trade agreement entered into under section 1102 of the Omnibus Trade and Competitiveness Act of 1988, to provide to the President, to Congress, and to the United States Trade Representative a report on such agreement. Each report that applies to a trade agreement entered into under section 1102 of the Omnibus Trade and Competitiveness Act of 1988 shall be provided under the preceding sentence not later than the date on which the President notifies the Congress under section 1103(a)(1)(A) of such Act of 1988 of his intention to enter into that agreement.

(2) The report of the Advisory Committee for Trade Policy and Negotiations and each appropriate policy advisory committee shall include an advisory opinion as to whether and to what extent the agreement promotes the economic interests of the

United States and achieves the applicable overall and principal negotiating objectives set forth in section 1101 of the Omnibus Trade and Competitiveness Act of 1988, as appropriate.

(3) The report of the appropriate sectoral or functional committee under paragraph (1) shall include an advisory opinion as to whether the agreement provides for equity and reciprocity within the sector or within the functional area.

(f) APPLICATION OF FEDERAL ADVISORY COMMITTEE ACT.—The provisions of the Federal Advisory Committee Act apply—

(1) to the Advisory Committee for Trade Policy and Negotiations established under subsection (b); and

(2) to all other advisory committees which may be established under subsection (c); except that the meetings of advisory committees established under subsections (b) and (c) shall be exempt from the requirements of subsections (a) and (b) of sections 10 and 11 of the Federal Advisory Committee Act (relating to open meetings, public notice, public participation, and public availability of documents), whenever and to the extent it is determined by the President or his designee that such meetings will be concerned with matters the disclosure of which would seriously compromise the development by the United States Government of trade policy, priorities, negotiating objectives or bargaining positions with respect to matters referred to in subsection (a), and that meetings may be called of such special task forces, plenary meetings of chairmen, or other such groups made up of members of the committees established under subsections (b) and (c).

(g) TRADE SECRETS AND CONFIDENTIAL INFORMATION.—

(1) Trade secrets and commercial or financial information which is privileged or confidential, and which is submitted in confidence by the private sector or non-Federal government to officers or employees of the United States in connection with trade negotiations, may be disclosed upon request to—

(A) officers and employees of the United States designated by the United States Trade Representative;

(B) members of the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate who are designated as official advisers under section 161(a)(1) or are designated by the chairmen of either such committee under section 161(b)(3)(A) and staff members of either such committee designated by the chairmen under section 161(b)(3)(A); and

(C) members of any committee of the House or Senate or any joint committee of Congress who are designated as advisers under section 161(a)(2) or designated by the chairman of such committee under section 161(b)(3)(B) and staff members of such committee designated under section 161(b)(3)(B), but disclosure may be made under this subparagraph only with respect to trade secrets or commercial or financial information that is relevant to trade policy matters or negotiations that are within the legislative jurisdiction of such committee;

for use in connection with matters referred to in subsection (a).

(2) Information other than that described in paragraph (1), and advice submitted in confidence by the private sector or non-Federal government to officers or employees of the United States, to the Advisory Committee for Trade Policy and Negotiations, or to any advisory committee established under subsection (c), in connection with matters referred to in subsection (a), may be disclosed upon request to—

(A) the individuals described in paragraph (1); and

(B) the appropriate advisory committee established under this section.

(3) Information submitted in confidence by officers or employees of the United States to the Advisory Committee for Trade Policy and Negotiations, or to any advisory committee established under subsection (c), may be disclosed in accordance with rules issued by the United States Trade Representative and the Secretaries of Commerce, Labor, Defense, Agriculture, or other executive departments, as appropriate, after consultation with the relevant advisory committees established under subsection (c). Such rules shall define the categories of information which require restricted or confidential handling by such committee considering the extent to which public disclosure of such information can reasonably be expected to prejudice the development of trade policy, priorities, or United States negotiating objectives. Such rules shall, to the maximum extent feasible, permit meaningful consultations by advisory committee members with persons affected by matters referred to in subsection (a).

(h) ADVISORY COMMITTEE SUPPORT.—The United States Trade Representative, and the Secretaries of Commerce, Labor, Defense, Agriculture, the Treasury, or other executive departments, as appropriate, shall provide such staff, information, personnel, and administrative services and assistance to advisory committees established under subsection (c) as such committees may reasonably require to carry out their activities.

(i) CONSULTATION WITH ADVISORY COMMITTEES; PROCEDURES; NONACCEPTANCE OF COMMITTEE ADVICE OR RECOMMENDATIONS.—It shall be the responsibility of the United States Trade Representative, in conjunction with the Secretaries of Commerce, Labor, Agriculture, the Treasury, or other executive departments, as appropriate, to adopt procedures for consultation with and obtaining information and advice from the advisory committees established under subsection (c) on a continuing and timely basis. Such consultation shall include the provision of information to each advisory committee as to—

(1) significant issues and developments; and

(2) overall negotiating objectives and positions of the United States and other parties;

with respect to matters referred to in subsection (a). The United States Trade Representative shall not be bound by the advice or recommendations of such advisory committees, but shall inform the advisory committees of significant departures from such advice or recommendations made. In addition, in the course of consultations with the Congress under this title, information on the advice and information provided by advisory committees shall be made available to congressional advisers.

(j) Private Organizations or Groups.—In addition to any advisory committee established under this section, the President shall provide adequate, timely and continuing opportunity for the submission on an informal basis (and, if such information is submitted under the provisions of subsection (g), on a confidential basis) by private organizations or groups, representing government, labor, industry, agriculture, small business, service industries, consumer interests, and others, of statistics, data and other trade information, as well as policy recommendations, pertinent to any matter referred to in subsection (a).

(k) Scope of Participation by Members of Advisory Committees.—Nothing contained in this section shall be construed to authorize or permit any individual to participate directly in any negotiation of any matters referred to in subsection (a). To the maximum extent practicable, the members of the committees established under subsections (b) and (c), and other appropriate parties, shall be informed and consulted before and during any such negotiations. They may be designated as advisors to a negotiating delegation, and may be permitted to participate in international meetings to the extent the head of the United States delegation deems appropriate. However, they may not speak or negotiate for the United States.

(l) Advisory Committees Established by Department of Agriculture.—The provisions of title XVIII of the Food and Agriculture Act of 1977 (7 U.S.C. 2281 et seq.) shall not apply to any advisory committee established under subsection (c).

(m) Non-Federal Government Defined.—As used in this section, the term "non-Federal government" means—

(1) any State, territory, or possession of the United States, or the District of Columbia, or any political subdivision thereof; or

(2) any agency or instrumentality of any entity described in paragraph (1).

* * * * * * *

CHAPTER 4—OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

SEC. 141. OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE.

(a) * * *

* * * * * * *

[(c)(1) The United States Trade Representative shall—

[(A) be the chief representative of the United States for each trade negotiation under this subchapter or section 2411 of this title;

[(B) report directly to the President and the Congress, and be responsible to the President and the Congress for the administration of trade agreements programs under this chapter, the Trade Expansion Act of 1962, and section 1351 of this title;

[(C) advise the President and Congress with respect to nontariff barriers to international trade, international commodity agreements, and other matters which are related to the trade agreements program;

[(D) be responsible for making reports to Congress with respect to the matter set forth in subparagraphs (A) and (B);

[(E) be chairman of the interagency trade organization established pursuant to section 242(a) of the Trade Expansion Act of 1962; and

[(F) be responsible for such other functions as the President may direct.]

(c)(1) The United States Trade Representative shall—

(A) have primary responsibility for developing, and for coordinating the implementation of, United States international trade policy, including commodity matters, and, to the extent they are related to international trade policy, direct investment matters;

(B) serve as the principal advisor to the President on international trade policy and shall advise the President on the impact of other policies of the United States Government on international trade;

(C) have lead responsibility for the conduct of, and shall be the chief representative of the United States for, international trade negotiations, including commodity and direct investment negotiations, in which the United States participates;

(D) issue and coordinate policy guidance to departments and agencies on basic issues of policy and interpretation arising in the exercise of international trade functions, to the extent necessary to assure the coordination of international trade policy and consistent with any other law;

(E) act as the principal spokesman of the President on international trade;

(F) report directly to the President and the Congress regarding, and be responsible to the President and the Congress for the administration of, trade agreements programs;

(G) advise the President and Congress with respect to nontariff barriers to international trade, international commodity agreements, and other matters wich are related to the trade agreements programs;

(H) be responsible for making reports to Congress with respect to matters referred to in subparagraphs (C) and (F);

(I) be chairman of the interagency trade organization established under section 242(a) of the Trade Expansion Act of 1962, and shall consult with and be advised by such organization in the performance of his functions; and

(J) in addition to those functions that are delegated to the United States Trade Representative as of the date of the enactment of the Omnibus Trade and Competitiveness Act of 1988, be responsible for such other functions as the President may direct.

(2) It is the sense of Congress that the United States Trade Representative should—

(A) be the senior representative on any body that the President may establish for the purpose of providing to the President advice on overall economic policies in which international trade matters predominate; and

(B) be included as a participant in all economic summit and other international meetings at which international trade is a major topic.

[(2)] *(3)* The United States Trade Representative may—

(A) delegate any of his functions, powers, and duties to such officers and employees of the Office as he may designate; and

(B) authorize such successive redelegations of such functions, powers, and duties to such officers and employees of the Office as he may deem appropriate.

[(3)**]** *(4)* Each Deputy United States Trade Representative shall have as his principal function the conduct of trade negotiations under this chapter and shall have such other functions as the United States Trade Representative may direct.

(d)(1) In carrying out subsection (c) with respect to unfair trade practices, the United States Trade Representative shall—

(A) coordinate the application of interagency resources to specific unfair trade practice cases;

(B) identify, and refer to the appropriate Federal department or agency for consideration with respect to action, each act, policy, or practice referred to in the report required under section 181(b), or otherwise known to the United States Trade Representative on the basis of other available information, that may be an unfair trade practice that either—

(i) is considered to be inconsistent with the provisions of any trade agreement and has a significant adverse impact on United States commerce, or

(ii) has a significant adverse impact on domestic firms or industries that are either too small or financially weak to initiate proceedings under the trade laws;

(C) identify practices having a significant adverse impact on United States commerce that the attainment of United States negotiating objectives would eliminate; and

(D) identify, on a biennial basis, those United States Government policies and practices that, if engaged in by a foreign government, might constitute unfair trade practices under United States law.

(2) For purposes of carrying out paragraph (1), the United States Trade Representative shall be assisted by an interagency unfair trade practices advisory committee composed of the Trade Representative, who shall chair the committee, and senior representatives of the following agencies, appointed by the respective heads of those agencies:

(A) The Bureau of Economics and Business Affairs of the Department of State.

(B) The United States and Foreign Commercial Services of the Department of Commerce.

(C) The International Trade Administration (other than the United States and Foreign Commercial Service) of the Department of Commerce.

(D) The Foreign Agricultural Service of the Department of Agriculture.

the United States Trade Representative may also request the advice of the United States International Trade Commission regarding the carrying out of paragraph (1).

(3) For purposes of this subsection, the term "unfair trade practice" means any act, policy, or practice that—

(A) may be a subsidy with respect to which countervailing duties may be imposed under subtitle A of title VII;

(B) may result in the sale or likely sale of foreign merchandise with respect to which antidumping duties may be imposed under subtitle B of title VII;

(C) may be either an unfair method of competition, or an unfair act in the importation of articles into the United States, that is unlawful under section 337; or

(D) may be an act, policy, or practice of a kind with respect to which action may be taken under title III of the Trade Act of 1974.

[(d)] *(e)* The United States Trade Representative may, for the purpose of carrying out his functions under this section—

* * * * * * *

[(e)] *(f)* The United States Trade Representative, shall, to the extent he deems it necessary for the proper administration and execution of the trade agreements programs of the United States, draw upon the resources of, and consult with, Federal agencies in connection with the performance of his functions.

(f)(1) There are authorized to be appropriated to the Office for the purpose of carrying out its functions $13,582,000 for fiscal year 1986; of which not to exceed $80,000 may be used for entertainment and representation expenses.

(2) For the fiscal year beginning October 1, 1982, and for each fiscal year thereafter, there are authorized to be appropriated to the Office for the salaries of its officers and employees such additional sums as may be provided by law to reflect pay rate changes made in accordance with the Federal Pay Comparability Act of 1970 [5 U.S.C. § 5301 et seq.].

* * * * * * *

CHAPTER 5—CONGRESSIONAL PROCEDURES WITH RESPECT TO PRESIDENTIAL ACTIONS

SEC. 151. BILLS IMPLEMENTING TRADE AGREEMENTS ON NONTARIFF BARRIERS AND RESOLUTIONS APPROVING COMMERCIAL AGREEMENTS WITH COMMUNIST COUNTRIES.

(a) * * *

* * * * * * *

(b) DEFINITIONS.—For purposes of this section—

(1) The term "implementing bill" means only a bill of either House of Congress which is introduced as provided in subsection (c) with respect to one or more trade agreements submitted to the House of Representatives and the Senate under [section 102] *section 102 of this Act or section 1103(a)(1) of the Omnibus Trade and Competitiveness Act of 1988* and which contains—

* * * * * * *

CHAPTER 6—CONGRESSIONAL LIAISON AND REPORTS

[SEC. 161. CONGRESSIONAL DELEGATES TO NEGOTIATIONS.

[(a) At the beginning of each regular session of Congress, the Speaker of the House of Representatives, upon the recommendation of the chairman of the Committee on Ways and Means, shall select five members (not more than three of whom are members of the same political party) of such committee, and the President pro tempore of the Senate, upon the recommendation of the chairman of the Committee on Finance, shall select five members (not more than three of whom are members of the same political party) of such committee, who shall be accredited by the President as official advisers to the United States delegations to international conferences, meetings, and nogotiation sessions relating to trade agreements.

[(b)(1) The United States Trade Representative shall keep each official adviser currently informed on United States negotiating objectives, the status of negotiations in progress, and the nature of any changes in domestic law or the administration thereof which may be recommended to Congress to carry out any trade agreement or any requirement of, amendment to, or recommendation under, such agreement.

[(2) The chairmen of the Committee on Ways and Means and the Committee on Finance may designate members (in addition to the official advisers under subsection (a)) and staff members of their respective committees who shall have access to the information provided to official advisers under paragraph (1).]

SEC. 161. CONGRESSIONAL ADVISERS FOR TRADE POLICY AND NEGOTIATIONS.

(a) SELECTION.—

(1) At the beginning of each regular session of Congress, the Speaker of the House of Representatives, upon the recommendation of the chairman of the Committee on Ways and Means, shall select 5 members (not more than 3 of whom are members of the same political party) of such committee, and the President pro tempore of the Senate, upon the recommendation of the chairman of the Committee on Finance, shall select 5 members (not more than 3 of whom are members of the same political party) of such committee, who shall be designated congressional advisers on trade policy and negotiations. They shall provide advice on the development of trade policy and priorities for the implementation thereof. They shall also be accredited by the United States Trade Representative on behalf of the President as official advisers to the United States delegations to international conferences, meetings, and negotiating sessions relating to trade agreements.

(2)(A) In addition to the advisers designated under paragraph (1) from the Committee on Ways and Means and the Committee on Finance—

(i) the Speaker of the House may select additional members of the House, for designation as congressional advisers regarding specific trade policy matters or negotiations, from any other committee of the House or joint committee of Congress that has jurisdiction over legislation likely to be affected by such matters or negotiations; and

(ii) the President pro tempore of the Senate may select additional members of the Senate, for designation as congressional advisers regarding specific trade policy matters or negotiations, from any other committee of the Senate or

joint committee of Congress that has jurisdiction over legislation likely to be affected by such matters or negotiations. Members of the House and Senate selected as congressional advisers under this subparagraph shall be accredited by the United States Trade Representative.

(B) Before designating any member under subparagraph (A), the Speaker or the President pro tempore shall consult with—

(i) the chairman and ranking member of the Committee on Ways and Means or the Committee on Finance, as appropriate; and

(ii) the chairman and ranking minority member of the committee from which the member will be selected.

(C) Not more than 3 members (not more than 2 of whom are members of the same political party) may be selected under this paragraph as advisers from any committee of Congress.

(b) BRIEFING.—

(1) The United States Trade Representative shall keep each official adviser designated under subsection (a)(1) currently informed on matters affecting the trade policy of the United States and, with respect to possible agreements, negotiating objectives, the status of negotiations in progress, and the nature of any changes in domestic law or the administration thereof which may be recommended to Congress to carry out any trade agreement or any requirement of, amendment to, or recommendation under, such agreement.

(2) The United States Trade Representative shall keep each official adviser designated under subsection (a)(2) currently informed regarding the trade policy matters and negotiations with respect to which the adviser is designated.

(3)(A) The chairmen of the Committee on Ways and Means and the Committee on Finance may designate members (in addition to the official advisers under subsection (a)(1)) and staff members of their respective committees who shall have access to the information provided to official advisers under paragraph (1).

(B) The Chairman of any committee of the House or Senate or any joint committee of Congress from which official advisers are selected under subsection (a)(2) may designate other members of such committee, and staff members of such committee, who shall have access to the information provided to official advisers under paragraph (2).

(c) COMMITTEE CONSULTATION.—The United States Trade Representative shall consult on a continuing basis with the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the other appropriate committees of the House and Senate on the development, implementation, and administration of overall trade policy of the United States. Such consultations shall include, but are not limited to, the following elements of such policy:

(1) The principal multilateral and bilateral negotiating objectives and the progress being made toward their achievement.

(2) The implementation, administration, and effectiveness of recently concluded multilateral and bilateral trade agreements and resolution of trade disputes.

(3) The actions taken, and proposed to be taken, under the trade laws of the United States and the effectiveness, or anticipated effectiveness, of such actions in achieving trade policy objectives.

(4) The important developments and issues in other areas of trade for which there must be developed proper policy response.

When necessary, meetings shall be held with each Committee in executive session to review matters under negotiation.

SEC. 162. TRANSMISSION OF AGREEMENTS TO CONGRESS.

(a) As soon as practicable after a trade agreement entered into under [chapter 1 or] section 123 or 124 *or under section 1102 of the Omnibus Trade and Competitiveness Act of 1988* has entered into force with respect to the United States, the President shall, if he has not previously done so, transmit a copy of such trade agreement to each House of the Congress together with a statement, in the light of the advice of the International Trade Commission under section 131(b), if any, and of other relevant considerations, of his reasons for entering into the agreement.

* * * * * * *

[SEC. 163. REPORTS.

[(a) The President shall submit to the Congress an annual report on the trade agreements program and on import relief and adjustment assistance for workers, firms, and communities under this Act. Such report shall include information regarding new negotiations; changes made in duties and nontariff barriers and other distortions of trade of the United States; reciprocal concessions obtained; changes in trade agreements (including the incorporation therein of actions taken for import relief and conpensation provided therefor); extension or withdrawal of nondiscriminatory treatment by the United States with respect to the products of a foreign country; extension, modification, withdrawal, suspension, or limitation of preferential treatment to exports of developing countries; the results of action taken to obtain removal of foreign trade restrictions (including discriminatory restrictions) against United States exports and the removal of foreign practices which discriminate against United States service industries (including transportation and tourism) and investment; and the measures being taken to seek the removal of other significant foreign import restrictions; and other information relating to the trade agreements program and to the agreements entered into thereunder. Such report shall also include information regarding the number of applications filed for adjustment assistance for workers, firms, and communities, the number of such applications which were approved, and the extent to which adjustment assistance has been provided under such approved applications.

[(b) The International Trade Commission shall submit to the Congress, at least once a year, a factual report on the operation of the trade agreements program.]

SEC. 163. REPORTS.

(a) ANNUAL REPORT ON TRADE AGREEMENTS PROGRAM AND NATIONAL TRADE POLICY AGENDA.—

(1) The President shall submit to the Congress during each calendar year (but not later than March 1 of that year) a report on—

(A) the operation of the trade agreements program, and the provision of import relief and adjustment assistance to workers and firms, under this Act during the preceding calendar year; and

(B) the national trade policy agenda for the year in which the report is submitted.

(2) The report shall include, with respect to the matters referred to in paragraph (1)(A), information regarding—

(A) new trade negotiations;

(B) changes made in duties and nontariff barriers and other distortions of trade of the United States;

(C) reciprocal concessions obtained;

(D) changes in trade agreements (including the incorporation therein of actions taken for import relief and compensation provided therefor);

(E) the extension or withdrawal of nondiscriminatory treatment by the United States with respect to the products of foreign countries;

(F) the extension, modification, withdrawal, suspension, or limitation of preferential treatment to exports of developing countries;

(G) the results of actions to obtain the removal of foreign trade restrictions (including discriminatory restrictions) against United States exports and the removal of foreign practices which discriminate against United States service industries (including transportation and tourism) and investment;

(H) the measures being taken to seek the removal of other significant foreign import restrictions;

(I) each of the referrals made under section 141(d)(1)(B) and any action taken with respect to such referral;

(J) other information relating to the trade agreements program and to the agreements entered into thereunder; and

(K) the number of applications filed for adjustment assistance for workers and firms, the number of such applications which were approved, and the extent to which adjustment assistance has been provided under such approved applications.

(3)(A) The national trade policy agenda required under paragraph (1)(B) for the year in which a report is submitted shall be in the form of a statement of—

(i) the trade policy objectives and priorities of the United States for the year, and the reasons therefor;

(ii) the actions proposed, or anticipated, to be undertaken during the year to achieve such objectives and priorities, including, but not limited to, actions authorized under the trade laws and negotiations with foreign countries;

(iii) any proposed legislation necessary or appropriate to achieve any of such objectives or priorities; and

(iv) the progress that was made during the preceding year in achieving the trade policy objectives and priorities included in the statement provided for that year under this paragraph.

(B) The President may separately submit any information referred to in subparagraph (A) to the Congress in confidence if the President considers confidentiality appropriate.

(C) Before submitting the national trade policy agenda for any year, the President shall seek advice from the appropriate advisory committees established under section 135 and shall consult with the appropriate committees of the Congress.

(D) The United States Trade Representative (hereafter referred to in this section as the "Trade Representative") and other appropriate officials of the United States Government shall consult periodically with the appropriate committees of the Congress regarding the annual objectives and priorities set forth in each national trade policy agenda with respect to—

(i) the status and results of the actions that have been undertaken to achieve the objectives and priorities; and

(ii) any development which may require, or result in, changes to any of such objectives or priorities.

(b) ANNUAL TRADE PROJECTION REPORT.—

(1) In order for the Congress to be informed of the impact of foreign trade barriers and macroeconomic factors on the balance of trade of the United States, the Trade Representative and the Secretary of the Treasury shall jointly prepare and submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives (hereafter referred to in this subsection as the "Committees") on or before March 1 of each year a report which consists of—

(A) a review and analysis of—

(i) the merchandise balance of trade,

(ii) the goods and services balance of trade,

(iii) the balance on the current account,

(iv) the external debt position,

(v) the exchange rates,

(vi) the economic growth rates,

(vii) the deficit or surplus in the fiscal budget, and

(viii) the impact on United States trade of market barriers and other unfair practices,

of countries that are major trading partners of the United States, including, as appropriate, groupings of such countries;

(B) projections for each of the economic factors described in subparagraph (A) (except those described in clauses (v) and (viii)) for each of the countries and groups of countries referred to in subparagraph (A) for the year in which the report is submitted and for the succeeding year; and

(C) conclusions and recommendations, based upon the projections referred to in subparagraph (B), for policy changes, including trade policy, exchange rate policy, fiscal policy, and other policies that should be implemented to improve the outlook.

(2) To the extent that subjects referred to in paragraph (1) (A), (B), or (C) are covered in the national trade policy agenda required under subsection (a)(1)(B) or in other reports required by this Act or other law, the Trade Representative and the Secretary of the Treasury may, as appropriate, draw on the information, analysis, and conclusions, if any, in those reports for the purposes of preparing the report required by this subsection.

(3) The Trade Representative and the Secretary of the Treasury shall consult with the Chairman of the Board of Governors of the Federal Reserve System in the preparation of each report required under this subsection.

(4) The Trade Representative and the Secretary of the Treasury may separately submit any information, analysis, or conclusion referred to in paragraph (1) to the Committees in confidence if the Trade Representative and the Secretary consider confidentiality appropriate.

(5) After submission of each report required under paragraph (1), the Trade Representative and the Secretary of the Treasury shall consult with each of the Committees with respect to the report.

(c) ITC REPORTS.—The United States International Trade Commission shall submit to the Congress, at least once a year, a factual report on the operation of the trade agreements program.

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[CHAPTER 8—BARRIERS TO MARKET ACCESS]

CHAPTER 8—IDENTIFICATION OF MARKET BARRIERS AND CERTAIN UNFAIR TRADE ACTIONS

* * * * * * *

SEC. 181. [ACTIONS CONCERNING] *ESTIMATES OF* BARRIERS TO MARKET ACCESS.

(a) NATIONAL TRADE ESTIMATES.—

(1) IN GENERAL.—[Not later than the date on which the initial report is required under subsection (b)(1),] *For calendar year 1988, and for each succeeding calendar year,* the United States Trade Representative, through the interagency trade organization established pursuant to section 242(a) of the Trade Expansion Act of 1962 *and with the assistance of the interagency advisory committee established under section 141(d)(2),* shall—

(A) identify and analyze acts, policies, or practices *of each foreign country* which constitute significant barriers to, or distortions of—

(i) United States exports of goods or services (including agricultural commodities; and property protected by trademarks, patents, and copyrights exported or licensed by United States persons), and

(ii) foreign direct investment by United States persons, especially if such investment has implications for trade in goods or services; [and]

(B) make an estimate of the trade-distorting impact on United States commerce of any act, policy, or practice identified under subparagraph (A)**[.]***; and*

(C) make an estimate, if feasible, of—

(i) the value of additional goods and services of the United States, and

(ii) the value of additional foreign direct investment by United States persons, that would have been exported to, or invested in, each foreign country during such calendar year if each of such acts, policies, and practices of such country did not exist.

(2) Certain factors taken into account in making analysis and estimate.—In making any analysis or estimate under paragraph (1), the Trade Representative shall take into account—

(A) the relative impact of the act, policy, or practice on United States commerce;

(B) the availability of information to document prices, market shares, and other matters necessary to demonstrate the effect of the act, policy, or practice;

(C) the extent to which such act, policy, or practice is subject to international agreements to which the United States is a party**[**; and**]**

(D) any advice given through appropriate committees established pursuant to section 135**[.]***; and*

(E) the actual increase in—

(i) the value of goods and services of the United States exported to, and

(ii) the value of foreign direct investment made in,

the foreign country during the calendar year for which the estimate under paragraph (1)(C) is made.

* * * * * * *

(b) Reports to Congress.—

[(1) In general.—On or before the date which is one year after the date of the enactment of the International Trade and Investment Act, and each year thereafter, the Trade Representative shall submit the analysis and estimate under subsection (a) to the Committee on Finance of the Senate and to the Committee on Ways and Means of the House of Representatives.**]**

(1) On or before April 30, 1989, and on or before March 31 of each succeeding calendar year, the Trade Representative shall submit a report on the analysis and estimates made under subsection (a) for the calendar year preceding such calendar year (which shall be known as the "National Trade Estimate") to the President, the Committee on Finance of the Senate, and appropriate committees of the House of Representatives.

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SEC. 182. IDENTIFICATION OF COUNTRIES THAT DENY ADEQUATE PROTECTION, OR MARKET ACCESS, FOR INTELLECTUAL PROPERTY RIGHTS.

(a) IN GENERAL.—By no later than the date that is 30 days after the date on which the annual report is submitted to Congressional committees under section 181(b), the United States Trade Representative (hereafter in this section referred to as the "Trade Representative") shall identify—

(1) those foreign countries that—

(A) deny adequate and effective protection of intellectual property rights, or

(B) deny fair and equitable market access to United States persons that rely upon intellectual property protection, and

(2) those foreign countries identified under paragraph (1) that are determined by the Trade Representative to be priority foreign countries.

(b) SPECIAL RULES FOR IDENTIFICATIONS.—

(1) In identifying priority foreign countries under subsection (a)(2), the Trade Representative shall only identify those foreign countries—

(A) that have the most onerous or egregious acts, policies, or practices that—

(i) deny adequate and effective intellectual property rights, or

(ii) deny fair and equitable market access to United States persons that rely upon intellectual property protection,

(B) whose acts, policies, or practices described in subparagraph (A) have the greatest adverse impact (actual or potential) on the relevant United States products, and

(C) that are not—

(i) entering into good faith negotiations, or

(ii) making significant progress in bilateral or multilateral negotiations,

to provide adequate and effective protection of intellectual property rights.

(2) In identifying priority foreign countries under subsection (a)(2), the Trade Representative shall—

(A) consult with the Register of Copyrights, the Commissioner of Patents and Trademarks, other appropriate officers of the Federal Government, and

(B) take into account information from such sources as may be available to the Trade Representative and such information as may be submitted to the Trade Representative by interested persons, including information contained in reports submitted under section 181(b) and petitions submitted under section 302.

(3) The Trade Representative may identify a foreign country under subsection (a)(1)(B) only if the Trade Representative finds that there is a factual basis for the denial of fair and equitable market access as a result of the violation of international law or agreement, or the existence of barriers, referred to in subsection (d)(3).

(c) REVOCATIONS AND ADDITIONAL IDENTIFICATIONS.—

(1) The Trade Representative may at any time—

(A) revoke the identification of any foreign country as a priority foreign country under this section, or

(B) identify any foreign country as a priority foreign country under this section, if information available to the Trade Representative indicates that such action is appropriate.

(2) The Trade Representative shall include in the semiannual report submitted to the Congress under section 309(3) a detailed explanation of the reasons for the revocation under paragraph (1) of the identification of any foreign country as a priority foreign country under this section.

(d) DEFINITIONS.—For purposes of this section—

(1) The term "persons that rely upon intellectual property protection" means persons involved in—

(A) the creation, production or licensing of works of authorship (within the meaning of sections 102 and 103 of title 17, United States Code) that are copyrighted, or

(B) the manufacture of products that are patented or for which there are process patents.

(2) A foreign country denies adequate and effective protection of intellectual property rights if the foreign country denies adequate and effective means under the laws of the foreign country for persons who are not citizens or nationals of such foreign country to secure, exercise, and enforce rights relating to patents, process patents, registered trademarks, copyrights and mask works.

(3) A foreign country denies fair and equitable market access if the foreign country effectively denies access to a market for a product protected by a copyright, patent, or process patent through the use of laws, procedures, practices, or regulations which—

(A) violate provisions of international law or international agreements to which both the United States and the foreign country are parties, or

(B) constitute discriminatory nontariff trade barriers.

(e) PUBLICATION.—The Trade Representative shall publish in the Federal Register a list of foreign countries identified under subsection (a) and shall make such revisions to the list as may be required by reason of action under subsection (c).

TITLE II—RELIEF FROM INJURY CAUSED BY IMPORT COMPETITION

[CHAPTER 1—IMPORT RELIEF

[SEC. 201. INVESTIGATION BY INTERNATIONAL TRADE COMMISSION.

[(a)(1) A petition for eligibility for import relief for the purpose of facilitating orderly adjustment to import competition may be filed with the International Trade Commission (hereinafter in this chapter referrrd to as the "Commission") by an entity, including a trade association, firm, certified or recognized union, or group of workers, which is representative of an industry. The petition shall include a statement describing the specific purposes for which import relief is being sought, which may include such objectives as facilitating the orderly transfer of resources to alternative uses and other means of adjustment to new conditions of competition.

[(2) Whenever a petition is filed under this subsection, the Commission shall transmit a copy thereof to the United States Trade Representative and the agencies directly concerned.

[(b)(1) Upon the request of the President or the United States Trade Representative, upon resolution of either the Committee on Ways and Means of the House of Representatives or the Committee on Finance of the Senate, upon its own motion, or upon the filing of a petition under subsection (a)(1), the Commission shall promptly make an investigation to determine whether an article is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

[(2) In making its determinations under paragraph (1), the Commission shall take into account all economic factors which it considers relevant, including (but not limited to)—

[(A) with respect to serious injury, the significant idling of productive facilities in the industry, the inability of a significant number of firms to operate at a reasonable level of profit, and significant unemployment or underemployment within the industry;

[(B) with respect to threat of serious injury, a decline in sales, a higher and growing inventory (whether maintained by domestic producers, importers, wholesalers, or retailers), and a downward trend in production, profits, wages, or employment (or increasing underemployment) in the domestic industry concerned;

[(C) with respect to substantial cause, an increase in imports (either actual or relative to domestic production) and a decline in the proportion of the domestic market supplied by domestic producers; and

[(D) the presence or absence of any factor which the Commission is required to evaluate in subparagraphs (A) and (B) shall not necessarily be dispositive of whether an article is being imported into the United States in such increased quantities as to be a substantial cause of serious injury or threat of serious injury to the domestic industry.

[(3) For purposes of paragraph (1), in determining the domestic industry article, the Commission—

[(A) may, in the case of a domestic producer which also imports, treat as part of such domestic industry only its domestic production,

[(B) may, in the case of a domestic producer which produces more than one article, treat as part of such domestic industry only that portion or subdivision of the producer which produces the like or directly competitive article, and

[(C) may, in the case of one or more domestic producers, who produce a like or directly competitive article in a major geographic area of the United States and whose production facilities in such area for such article constitute a substantial portion of the domestic industry in the United States and primarily serve the market in such area, and where the imports are concentrated in such area, treat as such domestic industry only that segment of the production located in such area.

[(4) For purposes of this section, the term "substantial cause" means a cause which is important and not less than any other cause.

[(5) In the course of any proceeding under this subsection, the Commission shall, for the purpose of assisting the President in making his determinations under sections 202 and 203, investigate and report on efforts made by firms and workers in the industry to commpete more effectively with imports.

[(6) In the course of any proceeding under this subsection, the Commission shall investigate any factors which in its judgment may be contributing to increased imports of the article under investigation; and, whenever in the course of its investigation the Commission has reason to believe that the increased imports are attributable in part to circumstances which come within the purview of subtitles A and B of title VII or section 337 of the Tariff Act of 1930, or other remedial provisions of law, the Commission shall promptly notify the appropriate agency so that such action may be taken as is otherwise authorized by such provisions of law.

[(7) For purposes of this section, the term "significant idling of productive facilities" includes the closing of plants or the underutilization of production capacity.

[(c) In the course of any proceeding under subsection (b), the Commission shall, after reasonable notice, hold public hearings and shall afford interested parties an opportunity to be present, to present evidence, and to be heard at such hearings.

[(d)(1) The Commission shall report to the President its findings under subsection (b), and the basis therefor and shall include in each report any dissenting or separate views. If the Commission finds with respect to any article, as a result of its investigation, the serious injury or threat thereof described in subsection (b), it shall—

[(A) find the amount of the increase in, or imposition of, any duty or import restriction on such article which is necessary to prevent or remedy such injury, or

[(B) if it determines that adjustment assistance under chapters 2, 3, and 4 can effectively remedy such injury, recommend the provision of such assistance,

and shall include such findings or recommendation in its report to the President. The Commission shall furnish to the President a transcript of the hearings and any briefs which were submitted in connection with each investigation.

[(2) The report of the Commission of its determination under subsection (b) shall be made at the earliest practicable time, but not later than 6 months after the date on which the petition is filed (or the date on which the request or resolution is received or the motion is adopted, as the case may be). Upon making such report to the President, the Commission shall also promptly make public such report (with the exception of information which the

Commission determines to be confidential) and shall cause a summary thereof to be published in the Federal Register.

[(e) Except for good cause determined by the Commission to exist, no investigation for the purposes of this section shall be made with respect to the same subject matter as a previous investigation under this section, unless 1 year has elapsed since the Commission made its report to the President of the results of such previous investigation.

[(f)(1) Any investigation by the Commission under section 301(b) of the Trade Expansion Act of 1962 (as in effect before the date of the enactment of this Act) which is in progress immediately before such date of enactment shall be continued under this section in the same manner as if the investigation had been instituted originally under the provisions of this section. For purposes of subsection (d)(2), the petition for any investigation to which the preceding sentence applies shall be treated as having been filed, or the request or resolution as having been received or the motion having been adopted, as the case may be, on the date of the enactment of this Act.

[(2) If, on the date of the enactment of this Act, the President has not taken any action with respect to any report of the Commission containing an affirmative determination resulting from an investigation under section 301(b) of the Trade Expansion Act of 1962 (as in effect before the date of the enactment of this Act), such report shall be treated by the President as a report received by him under this section on the date of the enactment of this Act.

[SEC. 202. PRESIDENTIAL ACTION AFTER INVESTIGATIONS.

[(a) After receiving a report from the Commission containing an affirmative finding under section 201(b) that increased imports have been a substantial cause of serious injury or the threat thereof with respect to an industry, the President—

[(1)(A) shall provide import relief for such industry pursuant to section 203, unless he determines that provision of such relief is not in the national economic interest of the United States, and

[(B) shall evaluate the extent to which adjustment assistance has been made available (or can be made available) under chapters 2, 3, and 4 of this title to the workers and firms in such industry and to the communities in which such workers and firms are located, and, after such evaluation, may direct the Secretary of Labor and the Secretary of Commerce that expeditious consideration be given to the petitions for adjustment assistance; or

[(2) if the Commission, under section 201(d), recommends the provision of adjustment assistance, shall direct the Secretaries of Labor and Commerce as described in paragraph (1)(B).

[(b) Within 60 days (30 days in the case of a supplemental report under subsection (d) after receiving a report from the Commission containing an affirmative finding under section 201(b) (or a finding under section 201(b) which he considers to be an affirmative finding, by reason of section 330(d) of the Tariff Act of 1930, within such 60-day (or 30-day) period), the President shall—

[(1) determine what method and amount of import relief he will provide, or determine that the provision of such relief is not in the national economic interest of the United States, and whether he will direct expeditious consideration of adjustment assistance petitions, and publish in the Federal Register that he has made such determination; or

[(2) if such report recommends the provision of adjustment assistance, publish in the Federal Register his order to the Secretary of Labor and Secretary of Commerce for expeditious consideration of petitions.

[(c) In determining whether to provide import relief and what method and amount of import relief he will provide pursuant to section 203, the President shall take into account, in addition to such other considerations as he may deem relevant—

[(1) information and advice from the Secretary of Labor on the extent to which workers in the industry have applied for, are receiving, or are likely to receive adjustment assistance under chapter 2 or benefits from other manpower programs;

[(2) information and advice from the Secretary of Commerce on the extent to which firms in the industry have applied for, are receiving, or are likely to receive adjustment assistance under chapters 3 and 4;

[(3) the probable effectiveness of import relief as a means to promote adjustment, the efforts being made or to be implemented by the industry concerned to adjust to import competition, and other considerations relative to the position of the industry in the Nation's economy;

[(4) the effect of import relief on consumers (including the price and availability of the imported article and the like or directly competitive article produced in the United States) and on competition in the domestic markets for such articles;

[(5) the effect of import relief on the international economic interests of the United States;

[(6) the impact on United States industries and firms as a consequence of any possible modification of duties or other import restrictions which may result from international obligations with respect to compensation;

[(7) the geographic concentration of imported products marketed in the United States;

[(8) the extent to which the United States market is the focal point for exports of such article by reason of restraints on exports of such article to, or on imports of such article into, third country markets; and

[(9) the economic and social costs which would be incurred by taxpayers, communities, and workers, if import relief were or were not provided.

[(d) The President may, within 15 days after the date on which he receives an affirmative finding of the Commission under section 201(b) with respect to an industry, request additional information from the Commission. The Commission shall, as soon as practicable but in no event more than 30 days after the date on which it receives the President's request, furnish additional information with respect to such industry in a supplemental report.

[SEC. 203. IMPORT RELIEF.

[(a) If the President determines to provide import relief under section 202(a)(1), he shall to the extent that and for such time (not to exceed 5 years) as he determines necessary taking into account the considerations specified in section 202(c) to prevent or remedy serious injury or the threat thereof to the industry in question and to facilitate the orderly adjustment to new competitive conditions by the industry in question—

[(1) proclaim an increase in, or imposition of, any duty on the article causing or threatening to cause serious injury to such industry;

[(2) proclaim a tariff-rate quota on such article;

[(3) proclaim a modification of, or imposition of, any quantitative restriction on the import into the United States of such article;

[(4) negotiate, conclude, and carry out orderly marketing agreements with foreign countries limiting the export from foreign countries and the import into the United States of such articles; or

[(5) take any combination of such actions.

[(b)(1) On the day the President determines under section 202 to provide import relief, including announcement of his intention to negotiate an orderly marketing agreement, the President shall transmit to Congress a document setting forth the action he is taking under this section. If the action taken by the President differs from the action recommended to him by the Commission under section 201(d)(1)(A), he shall state the reason for such difference.

[(2) On the day on which the President determines that the provision of import relief is not in the national economic interest of the United States, the President shall transmit to Congress a document setting forth such determination and the reasons why, in terms of the national economic interest, he is not providing import relief and also what other steps he is taking, beyond adjustment assistance programs immediately available to help the industry to overcome serious injury and the workers to find productive employment.

[(3) On the day on which the President proclaims any import relief under this section not reported pursuant to paragraph (1), he shall transmit to Congress a document setting forth the action he is taking and the reasons therefor.

[(c)(1) If the President reports under subsection (b) that he is taking action which differs from the action recommended by the Commission under section 201(d)(1)(A), or that he will not provide import relief, the action recommended by the Commission shall take effect (as provided in paragraph (2)) upon enactment of a joint resolution described in section 152(a)(1)(A) within the 90-day period beginning on the date on which the document referred to in subsection (b) is transmitted to the Congress.

[(2) If the contingency set forth in paragraph (1) occurs, the President shall (within 30 days after the enactment of the joint resolution referred to in paragraph (1)) proclaim the increase in, or imposition of, any duty or other import restriction on the article which was recommended by the Commission under section 201(d).

[(d)(1) No proclamation pursuant to subsection (a) or (c) shall be made increasing a rate of duty to (or imposing) a rate which is more than 50 percent ad valorem above the rate (if any) existing at the time of the proclamation.

[(2) Any quantitative restriction proclaimed pursuant to subsection (a) or (c) and any orderly marketing agreement negotiated pursuant to subsection (a) shall permit the importation of a quantity or value of the article which is not less than the quantity or value of such article imported into the United States during the most recent period which the President determines is representative of imports of such article.

[(e)(1) Import relief under this section shall be proclaimed and take effect within 15 days after the import relief determination date unless the President announces on such date his intention to negotiate one or more orderly marketing agreements under subsection (a) (4) or (5) in which case import relief shall be proclaimed and take effect within 90 days after the import relief determination date.

[(2) If the President provides import relief under subsection (a)(1), (2), (3), or (5), he may, after such relief takes effect, negotiate ordely marketing agreements with foreign countries, and may, after such agreements take effect, suspend or terminate, in whole or in part, such import relief.

[(3) If the President negotiates an orderly marketing agreement under subsection (a) (4) or (5) and such agreement does not continue to be effective, he may, consistent with the limitations contained in subsection (h), provide import relief under subsection (a).

[(4) For purposes of this subsection, the term "import relief determination date" means the date of the President's determination under section 202(b).

[(f)(1) For purposes of subsections (a) and (c), the suspension of item 806.30 or 807.00 of the Tariff Schedules of the United States with respect to an article shall be treated as an increase in duty.

[(2) For purposes of subsections (a) and (c), the suspension of the designation of any article as an eligible article for purposes of title V shall be treated as an increase in duty.

[(3) No proclamation providing for a suspension referred to in paragraph (1) with respect to any article shall be made under subsection (a) or (c) unless the Commission, in addition to making an affirmative determination with respect to such article under section 201(b), determines in the course of its investigation under section 201(b) that the serious injury (or threat thereof) substantially caused by imports to the domestic industry producing a like or directly competitive article results from the application of item 806.30 or item 807.00.

[(4) No proclamation which provides solely for a suspension referred to in paragraph (2) with respect to any article shall be made under subsection (a) or (c) unless the Commission, in addition to making an affirmative determination with respect to such article under section 201(b), determines in the course of its investigation under section 201(b) that the serious injury (or threat thereof) substantially caused by imports to the domestic industry producing a like or directly competitive article results from the designation of the article as an eligible article for the purpose of title V.

[(g)(1) The President shall by regulations provide for the efficient and fair administration of any restriction proclaimed pursuant to this section.

[(2) In order to carry out an agreement concluded under subsection (a)(4), (a)(5), (e)(2), or (e)(3), the President is authorized to prescribe regulations governing the entry or withdrawal from warehouse of articles covered by such agreement. In addition, in order to carry out any agreement concluded under subsection (a)(4), (a)(5), (e)(2), or (e)(3) with one or more countries accounting for a major part of United States imports of the article covered by such agreements, including imports into a major geographic area of the United States, the President is authorized to issue regulations governing the entry or withdrawal from warehouse of like articles which are the product of countries not parties to such agreement.

[(3) Regulations prescribed under this subsection shall, to the extent practicable and consistent with efficient and fair administration, insure against inequitable sharing of imports by a relatively small number of the larger importers.

[(h)(1) Any import relief provided pursuant to this section shall, unless renewed pursuant to paragraph (3), terminate no later than the close of the day which is 5 years after the day on which import relief with respect to the article in question first took effect pursuant to this section.

[(2) To the extent feasible, any import relief provided pursuant to this section for a period of more than 3 years shall be phased down during the period of such relief, with the first reduction of relief taking effect no later than the close of the day which is 3 years after the day on which such relief first took effect.

[(3) Any import relief provided pursuant to this section or section 351 or 352 of the Trade Expansion Act of 1962 may be extended by the President, at a level of relief no greater than the level in effect immediately before such extension, for one period of not more than 3 years if the President determines, after taking into account the advice received from the Commission under subsection (i)(2) or (i)(3) and after taking into account the considerations described in section 202(c), that such extension is in the national interest.

[(4) Any import relief provided pursuant to this section may be reduced or terminated by the President when he determines, after taking into account the advice received from the Commission under subsection (i)(2) or (i)(3) and after seeking advice of the Secretary of Commerce and the Secretary of Labor, that such reduction or termination is in the national interest.

[(5) For purposes of this subsection and subsection (i), the import relief provided in the case of an orderly marketing agreement shall be the level of relief contemplated by such agreement.

[(i)(1) So long as any import relief provided pursuant to this section or section 351 or 352 of the Trade Expansion Act of 1962 remains in effect, the Commission shall keep under review developments with respect to the industry concerned (including the progress and specific efforts made by the firms in the industry concerned to adjust to import competition) and upon request of the President shall make reports to the President concerning such developments.

[(2) Upon request of the President or upon its own motion, the Commission shall advise the President of its judgment as to the probable economic effect on the industry concerned of the extension, reduction, or termination of the import relief provided pursuant to this section.

[(3) Upon petition on behalf of the industry concerned, filed with the Commission not earlier than the date which is 9 months, and not later than the date which is 6 months, before the date any import relief provided pursuant to this section or section 351 or 352 of the Trade Expansion Act of 1962 is to terminate by reason of the expiration of the initial period therefor, the Commission shall advise the President of its judgment as to the probable economic effect on such industry of such termination.

[(4) In advising the President under paragraph (2) or (3) as to the probable economic effect on the industry concerned, the Commission shall take into account all economic factors which it considers relevant, including the considerations set forth in section 202(c) and the progress and specific efforts made by the industry concerned to adjust to import competition.

[(5) Advice by the Commission under paragraph (2) or (3) shall be given on the basis of an investigation during the course of which the Commission shall hold a hearing at which interested persons shall be given a reasonable opportunity to be present, to produce evidence and to be heard.

[(j) No investigation for the purposes of section 201 shall be made with respect to an article which has received import relief under this section unless 2 years have elapsed since the last day on which import relief was provided with respect to such article pursuant to this section.

[(k)(1) Actions by the President pursuant to this section may be taken without regard to the provisions of section 126(a) of this Act but only after consideration of the relation of such actions to the international obligations of the United States.

[(2) If the Commission treats as the domestic industry production located in a major geographic area of the United States under section 201(b)(3)(C), then the President shall take into account the geographic concentration of domestic production and of imports in that area in providing import relief, if any, which may include actions authorized under paragraph (1).]

CHAPTER 1—POSITIVE ADJUSTMENT BY INDUSTRIES INJURED BY IMPORTS

SEC. 201. ACTION TO FACILITATE POSITIVE ADJUSTMENT TO IMPORT COMPETITION.

(a) PRESIDENTIAL ACTION.—If the United States International Trade Commission (hereinafter referred to in this chapter as the "Commission") determines under section 202(b) that an article is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article, the President, in accordance with this chapter, shall take all appropriate and feasible action within his power which the President determines will facilitate efforts by

the domestic industry to make a positive adjustment to import competition and provide greater economic and social benefits than costs.

(b) Positive Adjustment to Import Competition.—

(1) For purposes of this chapter, a positive adjustment to import competition occurs when—

(A) the domestic industry—

(i) is able to compete successfully with imports after actions taken under section 204 terminate, or

(ii) the domestic industry experiences an orderly transfer of resources to other productive pursuits; and

(B) dislocated workers in the industry experience an orderly transition to productive pursuits.

(2) The domestic industry may be considered to have made a positive adjustment to import competition even though the industry is not of the same size and composition as the industry at the time the investigation was initiated under section 202(b).

SEC. 202. INVESTIGATIONS, DETERMINATIONS, AND RECOMMENDATIONS BY COMMISSION.

(a) Petitions and Adjustment Plans.—

(1) A petition requesting action under this chapter for the purpose of facilitating positive adjustment to import competition may be filed with the Commission by an entity, including a trade association, firm, certified or recognized union, or group of workers, which is representative of an industry.

(2) A petition under paragraph (1)—

(A) shall include a statement describing the specific purposes for which action is being sought, which may include facilitating the orderly transfer of resources to more productive pursuits, enhancing competitiveness, or other means of adjustment to new conditions of competition; and

(B) may—

(i) subject to subsection (d)(1)(C)(i), request provisional relief under subsection (d)(1); or

(ii) request, or at any time before the 150th day after the date of filing be amended to request, provisional relief under subsection (d)(2).

(3) Whenever a petition is filed under paragraph (1), the Commission shall promptly transmit copies of the petition to the Office of the United States Trade Representative and other Federal agencies directly concerned.

(4) A petitioner under paragraph (1) may submit to the Commission and the United States Trade Representative (hereafter in this chapter referred to as the "Trade Representative"), either with the petition, or at any time within 120 days after the date of filing of the petition, a plan to facilitate positive adjustment to import competition.

(5)(A) Before submitting an adjustment plan under paragraph (4), the petitioner and other entities referred to in paragraph (1) that wish to participate may consult with the Trade Representative and the officers and employees of any Federal agency that is considered appropriate by the Trade Representative, for purposes of evaluating the adequacy of the proposals being consid-

ered for inclusion in the plan in relation to specific actions that may be taken under this chapter.

(B) A request for any consultation under subparagraph (A) must be made to the Trade Representative. Upon receiving such a request, the Trade Representative shall confer with the petitioner and provide such assistance, including publication of appropriate notice in the Federal Register, as may be practicable in obtaining other participants in the consultation. No consultation may occur under subparagraph (A) unless the Trade Representative, or his delegate, is in attendance.

(6)(A) In the course of any investigation under subsection (b), the Commission shall seek information (on a confidential basis, to the extent appropriate) on actions being taken, or planned to be taken, or both, by firms and workers in the industry to make a positive adjustment to import competition.

(B) Regardless whether an adjustment plan is submitted under paragraph (4) by the petitioner, if the Commission makes an affirmative determination under subsection (b), any—

(i) firm in the domestic industry;

(ii) certified or recognized union or group of workers in the domestic industry;

(iii) State or local community;

(iv) trade association representing the domestic industry; or

(v) any other person or group of persons,

may, individually, submit to the Commission commitments regarding actions such persons and entities intend to take to facilitate positive adjustment to import competition.

(7) Nothing in paragraphs (5) and (6) may be construed to provide immunity under the antitrust laws.

(b) Investigations and Determinations by Commission.—

(1)(A) Upon the filing of a petition under subsection (b), the request of the President or the Trade Representative, the resolution of either the Committee on Ways and Means of the House of Representatives or the Committee on Finance of the Senate, or on its own motion, the Commission shall promptly make an investigation to determine whether an article is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

(B) For purposes of this section, the term "substantial cause" means a cause which is important and not less than any other cause.

(2)(A) Except as provided in subparagraph (B), the Commission shall make the determination under paragraph (1) within 120 days after the date on which the petition is filed, the request or resolution is received, or the motion is adopted, as the case may be.

(B) If before the 100th day after a petition is filed under subsection (a)(1) the Commission determines that the investigation is extraordinarily complicated, the Commission shall make the determination under paragraph (1) within 150 days after the date referred to in subparagraph (A).

(3)(A) If the Commission makes an affirmative determination under paragraph (1) and the petitioner alleges the existence of critical circumstances, the Commission shall make a determination regarding such allegation—

(i) on or before the 120th day after the day on which the petition was filed, if such allegation was included in the petition on or before the 90th day after such filing date; or

(ii) on or before the date the report required under subsection (f) regarding the determination is submitted to the President, if such allegation was included in the petition after the 90th day, and on or before the 150th day, after such filing date.

(B) For purposes of this paragraph and subsection (d)(2), critical circumstances exist if a substantial increase in imports (either actual or relative to domestic production) over a relatively short period of time has led to circumstances in which a delay in taking action under this chapter would cause harm that would significantly impair the effectiveness of such action.

(4) In the course of any proceeding under this subsection, the Commission shall, after reasonable notice, hold public hearings and shall afford interested parties and consumers an opportunity to be present, to present evidence, to comment on the adjustment plan, if any, submitted under subsection (a), and to be heard at such hearings.

(c) FACTORS APPLIED IN MAKING DETERMINATIONS.—

(1) In making determinations under subsection (b), the Commission shall take into account all economic factors which it considers relevant, including (but not limited to)—

(A) with respect to serious injury—

(i) the significant idling of productive facilities in the domestic industry,

(ii) the inability of a significant number of firms to carry out domestic production operations at a reasonable level of profit, and

(iii) significant unemployment or underemployment within the domestic industry;

(B) with respect to threat of serious injury—

(i) a decline in sales or market share, a higher and growing inventory (whether maintained by domestic producers, importers, wholesalers, or retailers), and a downward trend in production, profits, wages, or employment (or increasing underemployment) in the domestic industry,

(ii) the extent to which firms in the domestic industry are unable to generate adequate capital to finance the modernization of their domestic plants and equipment, or are unable to maintain existing levels of expenditures for research and development,

(iii) the extent to which the United States market is the focal point for the diversion of exports of the article concerned by reason of restraints on exports of such article to, or on imports of such article into, third country markets; and

(C) with respect to substantial cause, an increase in imports (either actual or relative to domestic production) and a decline in the proportion of the domestic market supplied by domestic producers.

(2) In making determinations under subsection (b), the Commission shall—

(A) consider the condition of the domestic industry over the course of the relevant business cycle, but may not aggregate the causes of declining demand associated with a recession or economic downturn in the United States economy into a single cause of serious injury or threat of injury; and

(B) examine factors other than imports which may be a cause of serious injury, or threat of serious injury, to the domestic industry.

The Commission shall include the results of its examination under subparagraph (B) in the report submitted by the Commission to the President under subsection (e).

(3) The presence or absence of any factor which the Commission is required to evaluate in subparagraphs (A) and (B) of paragraph (1) is not necessarily dispositive of whether an article is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry.

(4) For purposes of subsection (b), in determining the domestic industry producing an article like or directly competitive with an imported article, the Commission—

(A) to the extent information is available, shall, in the case of a domestic producer which also imports, treat as part of such domestic industry only its domestic production;

(B) may, in the case of a domestic producer which produces more than one article, treat as part of such domestic industry only that portion or subdivision of the producer which produces the like or directly competitive article; and

(C) may, in the case of one or more domestic producers which produce a like or directly competitive article in a major geographic area of the United States and whose production facilities in such area for such article constitute a substantial portion of the domestic industry in the United States and primarily serve the market in such area, and where the imports are concentrated in such area, treat as such domestic industry only that segment of the production located in such area.

(5) In the course of any proceeding under this subsection, the Commission shall investigate any factor which in its judgment may be contributing to increased imports of the article under investigation. Whenever in the course of its investigation the Commission has reason to believe that the increased imports are attributable in part to circumstances which come within the purview of subtitles A and B of title VII or section 337 of the Tariff Act of 1930, or other remedial provisions of law, the Commission shall promptly notify the appropriate agency so that such action may be taken as is otherwise authorized by such provisions of law.

(6) For purposes of this subsection:

(A) The term "domestic industry" includes producers located in the United States insular possession.

(B) The term "significant idling of productive facilities" includes the closing of plants or the underutilization of production capacity.

(d) PROVISIONAL RELIEF.—

(1)(A) An entity representing a domestic industry that produces a perishable agricultural product that is like or directly competitive with an imported perishable agricultural product may file a request with the Trade Representative for the monitoring of imports of that product under subparagraph (B). Within 21 days after receiving the request, the Trade Representative shall determine if—

(i) the imported product is a perishable agricultural product; and

(ii) there is a reasonable indication that such product is being imported into the United States in such increased quantities as to be, or likely to be, a substantial cause of serious injury, or the threat thereof, to such domestic industry.

(B) If the determinations under subparagraph (A) (i) and (ii) are affirmative, the Trade Representative shall request, under section 332(g) of the Tariff Act of 1930, the Commission to monitor and investigate the imports concerned for a period not to exceed 2 years. The monitoring and investigation may include the collection and analysis of information that would expedite an investigation under subsection (b).

(C) If a petition filed under subsection (a)—

(i) alleges injury from imports of a perishable agricultural product that has been, on the date the allegation is included in the petition, subject to monitoring by the Commission under paragraph (2) for not less than 90 days; and

(ii) requests that provisional relief be provided under this subsection with respect to such imports;

the Commission shall, not later than the 21st day after the day on which the request was filed, make a determination, on the basis of available information, whether increased imports (either actual or relative to domestic production) of the perishable agricultural product are a substantial cause of serious injury, or the threat thereof, to the domestic industry producing a like or directly competitive perishable product, and whether either—

(I) the serious injury is likely to be difficult to repair by reason of perishability of the like or directly competitive agricultural product; or

(II) the serious injury cannot be timely prevented through investigation under subsection (b) and action under section 203.

(D) At the request of the Commission, the Secretary of Agriculture shall promptly provide to the Commission any relevant information that the Department of Agriculture may have for purposes of making determinations and findings under this subsection.

(E) Whenever the Commission makes an affirmative preliminary determination under subparagraph (C), the Commission shall find the amount or extent of provisional relief that is necessary to prevent or remedy the serious injury or threat thereof. In carrying out this subparagraph, the Commission shall give preference to increasing or imposing a duty on imports, if such form of relief is feasible and would prevent or remedy the serious injury or threat thereof.

(F) The Commission shall immediately report to the President its determination under subparagraph (C) and, if the determination is affirmative, the finding under subparagraph (E).

(G) Within 7 days after receiving a report from the Commission under subparagraph (F) containing an affirmative determination, the President, if he considers provisional relief to be warranted and after taking into account the finding of the Commission under subparagraph (E), shall proclaim such provisional relief that the President considers necessary to prevent or remedy the serious injury or threat thereof.

(2)(A) The Commission shall, at the same time it makes an affirmative determination under subsection (b)(3)(A) regarding the existence of critical circumstances, find the amount or extent of provisional relief that is appropriate to address such critical circumstances. The Commission shall immediately report to the President each such affirmative determination and finding.

(B) After receiving a report from the Commission under subparagraph (A), the President shall, within 7 days after the day on which the report is received and after taking into account the finding of the Commission under subparagraph (A), proclaim such provisional relief, if any, that the President considers appropriate to address the critical circumstances.

(3) If provisional relief is proclaimed under paragraph (1)(G) or (2)(B) in the form of an increase, or the imposition of, a duty, the President shall order the suspension of liquidation of all imported articles subject to the affirmative determination under paragraph (1)(C) or subsection (b)(1), as the case may be, that are entered, or withdrawn from warehouse for consumption, on or after the date of the determination.

(4)(A) Any provisional relief implemented under this subsection with respect to an imported article shall terminate on the day on which—

(i) if such relief was proclaimed under paragraph (1)(G), the Commission makes a negative determination under section 203(a) regarding injury or the threat thereof by imports of such article;

(ii) action described in section 203(a)(3) (A) or (C) takes effect under section 203 with respect to such article;

(iii) a decision by the President not to take any action under section 203(a) with respect to such article becomes final; or

(iv) whenever the President determines that, because of changed circumstances, such relief is no longer warranted.

(B) Any suspension of liquidation ordered under paragraph (3) with respect to an imported article shall terminate on the

day on which provisional relief is terminated under subparagraph (A) with respect to the article.

(C) If an increase in, or the imposition of, a duty that is proclaimed under section 203 on an imported article is different from a duty increase or imposition that was proclaimed for such an article under this section, then the entry of any such article for which liquidation was suspended under paragraph (3) shall be liquidated at whichever of such rates of duty is lower.

(D) If provisional relief in the form of an increase in, or the imposition of, a duty is proclaimed under this section with respect to an imported article and neither a duty increase nor a duty imposition is proclaimed under section 203 regarding such article, the entry of any such article for which liquidation was suspended under paragraph (3) may be liquidated at the rate of duty that applied before provisional relief was provided.

(5) For purposes of this subsection:

(A) A perishable agricultural product is any agricultural article, including livestock, regarding which the Trade Representative considers action under this section to be appropriate after taking into account—

(i) whether the article has—

(I) a short shelf life,

(II) a short growing season, or

(III) a short marketing period,

(ii) whether the article is treated as a perishable product under any other Federal law or regulation; and

(iii) any other factor considered appropriate by the Trade Representative.

The presence or absence of any factor which the Trade Representative is required to take into account under clause (i), (ii), or (iii) is not necessarily dispositive of whether an article is a perishable agricultural product.

(B) The term "provisional relief" means—

(i) any increase in, or imposition of, any duty;

(ii) any modification or imposition of any quantitative restriction on the importation of an article into the United States; or

(iii) any combination of actions under clauses (i) and (ii).

(e) COMMISSION RECOMMENDATIONS.—

(1) If the Commission makes an affirmative determination under subsection (b)(1), the Commission shall also recommend the action that would address the serious injury, or threat thereof, to the domestic industry and be most effective in facilitating the efforts of the domestic industry to make a positive adjustment to import competition.

(2) The Commission is authorized to recommend under paragraph (1)—

(A) an increase in, or the imposition of, any duty on the imported article;

(B) a tariff-rate quota on the article;

(C) a modification or imposition of any quantitative restriction on the importation of the article into the United States;

(D) one or more appropriate adjustment measures, including the provision of trade adjustment assistance under chapter 2; or

(E) any combination of the actions described in subparagraphs (A) through (D).

(3) The Commission shall specify the type, amount, and duration of the action recommended by it under paragraph (1). The limitations set forth in section 203(e) are applicable to the action recommended by the Commission.

(4) In addition to the recommendation made under paragraph (1), the Commission may also recommend that the President—

(A) initiate international negotiations to address the underlying cause of the increase in imports of the article or otherwise to alleviate the injury or threat; or

(B) implement any other action authorized under law that is likely to facilitate positive adjustment to import competition.

(5) For purposes of making its recommendation under this subsection, the Commission shall—

(A) after reasonable notice, hold a public hearing at which all interested parties shall be provided an opportunity to present testimony and evidence; and

(B) take into account—

(i) the form and amount of action described in paragraph (2) (A), (B), and (C) that would prevent or remedy the injury or threat thereof,

(ii) the objectives and actions specified in the adjustment plan, if any, submitted under subsection (a)(4),

(iii) any individual commitment that was submitted to the Commission under subsection (a)(6),

(iv) any information available to the Commission concerning the conditions of competition in domestic and world markets, and likely developments affecting such conditions during the period for which action is being requested, and

(v) whether international negotiations may be constructive to address the injury or threat thereof or to facilitate adjustment.

(6) Only those members of the Commission who agreed to the affirmative determination under subsection (b) are eligible to vote on the recommendation required to be made under paragraph (1) or that may be made under paragraph (3). Members of the Commission who did not agree to the affirmative determination may submit, in the report required under subsection (f), separate views regarding what action, if any, should be taken under section 203.

(f) Report by Commission.—

(1) The Commission shall submit to the President a report on each investigation undertaken under subsection (b). The report shall be submitted at the earliest practicable time, but not later than 180 days after the date on which the petition is filed, the

request or resolution is received, or the motion is adopted, as the case may be.

(2) The Commission shall include in the report required under paragraph (1) the following:

(A) The determination made under subsection (b) and an explanation of the basis for the determination.

(B) If the determination under subsection (b) is affirmative, the recommendations for action made under subsection (e) and an explanation of the basis for each recommendation.

(C) Any dissenting or separate views by members of the Commission regarding the determination and any recommendation referred to in subparagraphs (A) and (B).

(D) The findings required to be included in the report under subsection (c)(2).

(E) A copy of the adjustment plan, if any, submitted under section 201(b)(4).

(F) Commitments submitted, and information obtained, by the Commission regarding steps that firms and workers in the domestic industry are taking, or plan to take, to facilitate positive adjustment to import competition.

(G) A description of—

(i) the short- and long-term effects that implementation of the action recommended under subsection (e) is likely to have on the petitioning domestic indutry, on other domestic industries, and on consumers, and

(ii) the short- and long-term effects of not taking the recommended action on the petitioning domestic industry, its workers and the communities where production facilities of such industry is located, and on other domestic industries.

(3) The Commission, after submitting a report to the President under paragraph (1), shall promptly make it available to the public (with the exception of the confidential information obtained under section 202(a)(6)(B) and any other information whch the Commission determines to be confidential) and cause a summary thereof to be published in the Federal Register.

(g) EXPEDITED CONSIDERATION OF ADJUSTMENT ASSISTANCE PETITIONS.—If the Commission makes an affirmative determination under subsection (b)(1), the Commission shall promptly notify the Secretary of Labor and the Secretary of Commerce of the determination. After receiving such notification—

(1) the Secretary of Labor shall give expedited consideration to petitions by workers in the domestic industry for certification for eligibility to apply for adjustment assistance under chapter 2; and

(2) the Secretary of Commerce shall give expedited consideration to petitions by firms in the domestic industry for certification of eligibility to apply for adjustment assistance under chapter 3.

(h) LIMITATIONS ON INVESTIGATIONS.—

(1) Except for good cause determined by the Commission to exist, no investigation for the purposes of this section shall be made with respect to the same subject matter as a previous in-

vestigation under this chapter, unless 1 year has elapsed since the Commission made its report to the President of the results of such previous investigation.

(2) If an article was the subject of an investigation under this section that resulted in any action described in section 203(a)(3)(A), (B), (C), or (E) being taken under section 203, no other investigation under this chapter may be initiated with respect to such article while such action is in effect or during the period beginning on the date on whch such action terminates that is equal in duration to the period which such action was in effect.

SEC. 203. ACTION BY PRESIDENT AFTER DETERMINATION OF IMPORT INJURY.

(a) IN GENERAL.—

(1)(A) After receiving a report under section 202(f) containing an affirmative finding regarding serious injury, or the threat thereof, to a domestic industry, the President shall take all appropriate and feasible action within his power which the President determines will facilitate efforts by the domestic industry to make a positive adjustment to import competition and provide greater ecomomic and social benefits than costs.

(B) The action taken by the President under subparagraph (A) shall be to such extent, and for such duration, subject to subsection (e)(1), that the President determines to be appropriate and feasible under such subparagraph.

(C) The interagency trade organization established under section 242(a) of the Trade Expansion Act of 1962 shall, with respect to each affirmative determination reported under section 202(f), make a recommendation to the President as to what action the President should take under subparagraph (A).

(2) In determining what action to take under paragraph (1), the President shall take into account—

(A) the recommendation and report of the Commission;

(B) the extent to which workers and firms in the domestic industry are—

(i) benefitting from adjustment assistance and other manpower programs, and

(ii) engaged in worker retraining efforts;

(C) the efforts being made, or to be implemented, by the domestic industry (including the efforts including in any adjustment plan or commitment submitted to the Commission under section 201(b)) to make a positive adjustment to import competition;

(D) the probable effectiveness of the actions authorized under paragraph (3) to facilitate positive adjustment to import competition;

(E) the short- and long-term economic and social costs of the actions authorized under paragraph (3) relative to their short- and long-term economic and social benefits and other considerations relative to the position of the domestic industry in the United States economy;

(F) other factors related to the national economic interest of the United States, including, but not limited to—

(i) the economic and social costs which would be incurred by taxpayers, communities, and workers if import relief were not provided under this chapter,

(ii) the effect of the implementation of actions under this section on consumers and on competition in domestic markets for articles, and

(iii) the impact on United States industries and firms as a result of international obligations regarding compensation;

(G) the extent to which there is diversion of foreign exports to the United States market by reason of foreign restraints;

(H) the potential for circumvention of any action taken under this section;

(I) the national security interests of the United States; and

(J) the factors required to be considered by the Commission under section 202(e)(5).

(3) The President may, for purposes of taking action under paragraph (1)—

(A) proclaim an increase in, or the imposition of, any duty on the imported article;

(B) proclaim a tariff-rate quota on the article;

(C) proclaim a modification or imposition of any quantitative restriction on the importation of the article into the United States;

(D) implement one or more appropriate adjustment measures, including the provision of trade adjustment assistance under chapter 2;

(E) negotiate, conclude, and carry out orderly marketing agreements with foreign countries limiting the export from foreign countries and the import into the United States of such article;

(F) proclaim procedures necessary to allocate among importers by the auction of import licenses quantities of the article that are permitted to be imported into the United States;

(G) initiate international negotiations to address the underlying cause of the increase in imports of the article or otherwise to alleviate the injury or threat thereof;

(H) submit to Congress legislative proposals to facilitate the efforts of the domestic industry to make a positive adjustment to import competition;

(I) take any other action which may be taken by the President under the authority of law and which the President considers appropriate and feasible for purposes of paragraph (1); and

(J) take any combination of actions listed in subparagraphs (A) through (I).

(4) The President shall take action under paragraph (1) within 60 days after receiving a report from the Commission containing an affirmative determination under section 202(b)(1) (or a determination under such section which he considers to be an affirmative determination by reason of section 330(d) of the

Tariff Act of 1930); except that if a supplemental report is requested under paragraph (5), the President shall take action under paragraph (1) within 30 days after the supplemental report is received.

(5) The President may, within 15 days after the date on which he receives a report from the Commission containing an affirmative determination under section 202(b)(1), request additional information from the Commission. The Commission shall, as soon as practicable but in no event more than 30 days after the date on which it receives the President's request, furnish additional information with respect to the industry in a supplemental report.

(b) REPORTS TO CONGRESS.—

(1) On the day the President takes action under subsection (a)(1), the President shall transmit to Congress a document describing the action and the reasons for taking the action. If the action taken by the President differs from the action required to be recommended by the Commission under section 202(e)(1), the President shall state in detail the reasons for the difference.

(2) On the day on which the President decides that there is no appropriate and feasible action to take under subsection (a)(1) with respect to a domestic industry, the President shall transmit to Congress a document that sets forth in detail the reasons for the decision.

(3) On the day on which the President takes any action under subsection (a)(1) that is not reported under paragraph (1), the President shall transmit to Congress a document setting forth the action being taken and the reasons therefor.

(c) IMPLEMENTATION OF ACTION RECOMMENDED BY COMMISSION.—If the President reports under subsection (b) (1) or (2) that—

(1) the action taken under subsection (a)(1) differs from the action recommended by the Commission under section 202(e)(1); or

(2) no action will be taken under subsection (a)(1) with respect to the domestic industry;

the action recommended by the Commission shall take effect (as provided in subsection (c)(2)) upon the enactment of a joint resolution described in section 152(a)(1)(A) within the 90-day period beginning on the date on which the document referred to in subsection (b) (1) or (2) is transmitted to the Congress.

(d) TIME FOR TAKING EFFECT OF CERTAIN RELIEF.—

(1) Except as provided in paragraph (2), any action described in subsection (a)(3) (A), (B), or (C), that is taken under subsection (a)(1) shall take effect within 15 days after the day on which the President proclaims the action, unless the President announces, on the date he decides to take such action, his intention to negotiate one or more orderly marketing agreements in which case the action under subsection (a)(3) (A), (B), or (C) shall be proclaimed and take effect within 90 days after the date of such decision.

(2) If the contingency set forth in subsection (c) occurs, the President shall, within 30 days after the date of the enactment of the joint resolution referred to in such subsection, proclaim

the action recommended by the Commission under section 202(e)(1).

(e) LIMITATIONS ON ACTIONS.—

(1)(A) The duration of the period in which action taken under this section may be in effect shall not exceed 8 years.

(B) If the initial effective period for action taken under this section is less than 8 years, the President may extend the effective period once, but the aggregate of the initial period and the extension may not exceed 8 years.

(2) Action may be taken under subsection (a)(1) (A), (B), or (C) or under section 202(d)(2)(B) only to the extent the cumulative impact of such action does not exceed the amount necessary to prevent or remedy the serious injury or threat thereof.

(3) No action may be taken under this section which would increase a rate of duty to (or impose a rate) which is more than 50 percent ad valorem above the rate (if any) existing at the time the action is taken.

(4) Any action taken under this section proclaiming a quantitative restriction shall permit the importation of a quantity or value of the article which is not less than the quantity or value of such article imported into the United States during the most recent period that is representative of imports of such article.

(5) To the extent feasible, an effective period of more than 3 years for an action described in subsection (a)(3) (A), (B), or (C) shall be phased down during the period in which the action is taken, with the first reduction taking effect no later than the close of the day which is 3 years after the day on which such action first takes effect.

(6)(A) The suspension, pursuant to any action taken under this section, of—

(i) subheading 9802.00.60 or 9802.00.80 of the Harmonized Tariff Schedule of the United States with respect to an article; and

(ii) the designation of any article as an eligible article for purposes of title V;

shall be treated as an increase in duty.

(B) No proclamation providing for a suspension referred to in subparagraph (A) with respect to any article may be made by the President, nor may any such suspension be recommended by the Commission under section 203(c), unless the Commission, in addition to making an affirmative determination under section 202(b)(1), determines in the course of its investigation under section 203(a) that the serious injury, or threat thereof, substantially caused by imports to the domestic industry producing a like or directly competitive article results from, as the case may be—

(i) the application of subheading 9802.00.60 or subheading 9802.00.80 of the Harmonized Tariff Schedule of the United States; or

(ii) the designation of the article as an eligible article for the purposes of title V.

(f) ORDERLY MARKETING AND OTHER AGREEMENTS.—

(1) If the President takes action under this section other than the implemention of orderly marketing agreements, the Presi-

dent may, after such action takes effect, negotiate orderly marketing agreements with foreign countries, and may, after such agreements take effect, suspend or terminate, in whole or in part, any action previously taken.

(2) If an orderly marketing agreement implemented under subsection (a) is not effective, the President may, consistent with the limitations contained in subsection (e), take additional action under subsection (a).

(g) REGULATIONS.—

(1) The President shall by regulation provide for the efficient and fair administration of all actions taken for the purpose of providing import relief under this chapter.

(2) In order to carry out an orderly marketing or other international agreement concluded under this chapter, the President may prescribe regulations governing the entry or withdrawal from warehouse of articles covered by such agreement. In addition, in order to carry out any orderly marketing agreement concluded under this chapter with one or more countries accounting for a major part of United States imports of the article covered by such agreements, including imports into a major geographic area of the United States, the President may issue regulations governing the entry or withdrawal from warehouse of like articles which are the product of countries not parties to such agreement.

(3) Regulations prescribed under this subsection shall, to the extent practicable and consistent with efficient and fair administration, insure against inequitable sharing of imports by a relatively small number of the larger importers.

SEC. 204. MONITORING, MODIFICATION, AND TERMINATION OF ACTION.

(a) MONITORING.—

(1) So long as any action taken under section 203 remains in effect, the Commission shall monitor developments with respect to the domestic industry, including the progress and specific efforts made by workers and firms in the domestic industry to make a positive adjustment to import competition.

(2) The Commission shall submit a report on the results of the monitoring under paragraph (1) to the President and to the Congress not later than—

(A) the 2nd-anniversary of the day on which the action under section 203 first took effect; and

(B) the last day of each 2-year period occurring after the 2-year period referred to in subparagraph (A).

(3) In the course of preparing each report under paragraph (2), the Commission shall hold a hearing at which interested persons shall be given a reasonable opportunity to be present, to produce evidence, and to be heard.

(4) Upon request of the President, the Commission shall advise the President of its judgment as to the probable economic effect on the industry concerned of any extension, reduction, modification, or termination of the action taken under section 203 which is under consideration.

(b) REDUCTION, MODIFICATION, AND TERMINATION OF ACTION.—

(1) Action taken under section 203 may be reduced, modified, or terminated by the President (but not before the President receives the report required under subsection (a)(2)(A)) if the President—

(A) after taking into account any report or advice submitted by the Commission under subsection (a) and after seeking the advice of the Secretary of Commerce and the Secretary of Labor, determines, on the basis that either—

(i) the domestic industry has not made adequate efforts to make a positive adjustment to import competition, or

(ii) the effectiveness of the action taken under section 203 has been impaired by changed economic circumstances,

that changed circumstances warrant such reduction, or termination; or

(B) determines, after a majority of the representatives of the domestic industry submits to the President a petition requesting such reduction, modification, or termination on such basis, that the domestic industry has made a positive adjustment to import competition.

(2) Notwithstanding paragraph (1), the President is authorized to take such additional action under section 203 as may be necessary to eliminate any circumvention of any action previously taken under such section.

(c) Evaluation of Effectiveness of Action.—

(1) After any action taken under section 203 has terminated, the Commission shall evaluate the effectiveness of the actions in facilitating positive adjustment by the domestic industry to import competition, consistent with the reasons set out by the President in the report submitted to the Congress under section 203(b).

(2) During the course of the evaluation conducted under paragraph (1), the Commission shall, after reasonable public notice, hold a hearing on the effectiveness of the action. All interested persons shall have the opportunity to attend such hearing and to present evidence or testimony at such hearing.

(3) A report on the evaluation made under paragraph (1) and the hearings held under paragraph (2) shall be submitted by the Commission to the President and to the Congress by no later than the 180th day after the day on which the actions taken under section 203 terminated.

(d) Other Provisions.—

(1) Action by the President under this chapter may be taken without regard to the provisions of section 126(a) of this Act but only after consideration of the relation of such actions to the international obligations of the United States.

(2) If the Commission treats as the domestic industry production located in a major geographic area of the United States under section 202(c)(4)(C), then the President shall take into account the geographic concentration of domestic production and

of imports in that area in taking any action authorized under paragraph (1).

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CHAPTER 2—ADJUSTMENT ASSISTANCE FOR WORKERS

Subchapter A—Petitions and Determinations

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SEC. 222. GROUP ELIGIBILITY REQUIREMENTS.

(*a*) The Secretary shall certify a group of workers (including workers in any agricultural firm or subdivision of an agricultural firm) as eligible to apply for adjustment assistance under this chapter if he determines—

(1) that a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated,

(2) that sales or production, or both, of such firm or subdivision have decreased absolutely, and

[(3) that increases of imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.]

[For purposes of paragraph (3), the term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.]

(3) increases of imports of articles like or directly competitive with articles—

(A) which are produced by such workers' firm or appropriate subdivision thereof, or

(B) for which such workers' firm, or appropriate subdivision thereof, provides essential goods or essential services,[1]

contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

(b) For purposes of subsection (a)(3)—

(1) The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

(2)(A) Any firm, or appropriate subdivision of a firm, that engages in exploration or drilling for oil or natural gas shall be considered to be a firm producing oil or natural gas.

(B) Any firm, or appropriate subdivision of a firm, that engages in exploration or drilling for oil or natural gas, or otherwise produces oil or natural gas, shall be considered to be producing articles directly competitive with imports of oil and with imports of natural gas.

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[1] Subparagraph (B) shall take effect 1 year after the date on which an import fee is imposed pursuant to section 287.

SEC. 224. STUDY BY SECRETARY OF LABOR WHEN INTERNATIONAL TRADE COMMISSION BEGINS INVESTIGATION: ACTION WHERE THERE IS AFFIRMATIVE FINDING.

(a) Whenever the International Trade Commission (hereafter referred to in this chapter as the "Commission") begins an investigation under section [201] *202* with respect to an industry, the Commission shall immediately notify the Secretary of such investigation, and the Secretary shall immediately begin a study of—

(1) the number of workers in the domestic industry producing the like or directly competitive article who have been or are likely to be certified as eligible for adjustment assistance, and

(2) the extent to which the adjustment of such workers to the import competition may be facilitated through the use of existing programs.

(b) The report of the Secretary of the study under subsection (a) shall be made to the President not later than 15 days after the day on which the Commission makes its report under section [201] *202(f)*. Upon making his report to the President, the Secretary shall also promptly make it public (with the exception of information which the Secretary determines to be confidential) and shall have a summary of it published in the Federal Register.

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SEC. 225. BENEFIT INFORMATION TO WORKERS.

[The Secretary] *(a) The Secretary* shall provide full information to workers about the benefit allowances, training, and other employment services available under this chapter and about the petition and application procedures, and the appropriate filing dates, for such allowances, training and services. The Secretary shall provide whatever assistance is necessary to enable groups of workers to prepare petitions or applications for program benefits. The Secretary shall make every effort to insure that cooperating State agencies fully comply with the agreements entered into under section 239(a) and shall periodically review such compliance. The Secretary shall inform the State Board for Vocational Education or equivalent agency and other public or private agencies, institutions, and employers, as appropriate, of each certification issued under section 223 and of projections, if available, of the needs for training under section 236 as a result of such certification.

(b)(1) The Secretary shall provide written notice through the mail of the benefits available under this chapter to each worker whom the Secretary has reason to believe is covered by a certification made under subchapter A of this chapter—

(A) at the time such certification is made, if the worker was partially or totally separated from the adversely affected employment before such certification, or

(B) at the time of the total or partial separation of the worker from the adversely affected employment, if subparagraph (A) does not apply.

(2) The Secretary shall publish notice of the benefits available under this chapter to workers covered by each certification made

under subchapter A in newspapers of general circulation in the areas in which such workers reside.

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Subchapter B—Program Benefits

PART I—TRADE READJUSTMENT ALLOWANCES

SEC. 231. QUALIFYING REQUIREMENTS FOR WORKERS.

(a) Payment of a trade readjustment allowance shall be made to an adversely affected worker covered by a certification under subchapter A who files an application for such allowance for any week of unemployment which begins more than 60 days after the date on which the petition that resulted in such certification was filed under section 221, if the following conditions are met:

* * * * * * *

[(5) Such worker, unless the Secretary has determined that no acceptable job search program is reasonably available—

[(A) is enrolled in a job search program approved by the Secretary under section 237(c), or

[(B) has, after the date on which the worker became totally separated, or partially separated, from the adversely affected employment, completed a job search program approved by the Secretary under section 237(c).]

(5) Such worker—

(A) is enrolled in a training program approved by the Secretary under section 236(a),

(B) has, after the date on which the worker became totally separated, or partially separated, from the adversely affected employment, completed a training program approved by the Secretary under section 236(a), or

(C) has received a written statement certified under subsection (c) after the date described in subparagraph (B).

[(b) If the Secretary determines with respect to any labor market area that—

[(1) a high level of unemployment exists,

[(2) suitable employment opportunities are not available, and

[(3) there are facilities available for the provision of training under section 236 in new or related job classifications,

the Secretary may, in accordance with such regulations as he shall prescribe, require all adversely affected workers who were totally or partially separated in such area and for whom such training is approved under section 236—

[(A) to accept such training, or

[(B) to search actively for work outside such area,

whichever the worker may choose; except that no worker may be required (i) to accept training or undertake a job search under this subsection until after the first 8 weeks of his eligibility for trade readjustment allowances has expired or (ii) to accept, or to participate in, such training for a period longer than the remaining period to which he is entitled to such allowances. For purposes of this subsection, the term "labor market area" has the same meaning as is given such term in the Introduction to the Directory of Important Labor Areas, 1980 edition, published by the Department of Labor; except that for any portion of any State which is not included within that term in such introduction, the county or counties in which that portion is located shall be treated as the applicable labor market area.]

(b)(1) If—

(A) the Secretary determines that—

(i) the adversely affected worker—

(I) has failed to begin participation in the training program the enrollment in which meets the requirement of subsection (a)(5), or

(II) has ceased to participate in such training program before completing such training program, and

(ii) there is no justifiable cause for such failure or cessation, or

(B) the certification made with respect to such worker under subsection (c)(1) is revoked under subsection (c)(2),

no trade readjustment allowance may be paid to the adversely affected worker under this part for the week in which such failure, cessation, or revocation occurred, or any succeeding week, until the adversely affected worker begins or resumes participation in a training program approved under section 236(a).

(2) The provisions of subsection (a)(5) and paragraph (1) shall not apply with respect to any week of unemployment which begins—

(A) after the date that is 60 days after the date on which the petition that results in the certification that covers the worker is filed under section 221, and

(B) before the first week following the week in which such certification is made under subchapter (A).

[(c) If the Secretary determines that—

[(1) The adversely affected worker—

[(A) has failed to begin participation in the job search program the enrollment in which meets the requirement of subsection (a)(5), or

[(B) has ceased to participate in such job search program before completing such job search program, and

[(2) there is no justifiable cause for such failure or cessation, no trade readjustment allowance may be paid to the adversely affected worker under this part on or after the date of such determination until the adversely affected worker begins or resumes participation in a job search program approved under section 237(c).]

(c)(1)(A) If the Secretary finds that it is not feasible or appropriate to approve a training program for a worker under section 236(a), the Secretary shall submit to such worker a written statement certifying such finding.

(B) If a State or State agency has an agreement with the Secretary under section 239 and the State or State agency finds that it is not feasible or appropriate to approve a training program for a worker pursuant to the requirements of section 236(a), the State or State agency shall—

(i) submit to such worker a written statement certifying such finding, and

(ii) submit to the Secretary a written statement certifying such finding and the reasons for such finding.

(2)(A) If, after submitting to a worker a written statement certified under paragraph (1)(A), the Secretary finds that it is feasible or appropriate to approve a training program for such worker under section 236(a), the Secretary shall submit to such worker a written statement that revokes the certification made under paragraph (1)(A) with respect to such worker.

(B) If, after submitting to a worker a written statement certified under paragraph (1)(B), a State or State agency finds that it is feasible or appropriate to approve a training program for such worker pursuant to the requirements of section 236(a), the State or State agency shall submit to such worker, and to the Secretary, a written statement that revokes the certification made under paragraph (1)(B) with respect to such worker.

(3) The Secretary shall submit to the Finance Committee of the Senate and to the Ways and Means Committee of the House of Representatives an annual report on the number of workers who received certifications under paragraph (1) during the preceding year and the number of certifications made under paragraph (1) that were revoked during the preceding year.

SEC. 232. WEEKLY AMOUNTS.

(a) * * *

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(b) Any adversely affected worker who is entitled to trade readjustment allowances and who is undergoing training approved by the Secretary**[**, including on-the-job training,**]** shall receive for each week in which he is undergoing any such training, a trade readjustment allowance in an amount (computed for such week) equal to the amount computed under subsection (a) or (if greater) the amount of any weekly allowance for such training to which he would be entitled under any other Federal law for the training of workers, if he applied for such allowance. Such trade readjustment allowance shall be paid in lieu of any training allowance to which the worker would be entitled under such other Federal law.

(c) If a training allowance under any Federal law other than this chapter, is paid to an adversely affected worker for any week of unemployment with respect to which he would be entitled (determined without regard to any disqualification **[**under section 231(c) or 236(c)**]** *under section 231(b)*) to a trade readjustment allowance if he applied for such allowance, each such week shall be deducted from the total number of weeks of trade readjustment allowance otherwise payable to him under section 233(a) when he applies for a trade readjustment allowance and is determined to be entitled to such allowance. If such training allowance paid to such worker for any week of unemployment is less than the amount of the trade readjustment allowance to which he would be entitled if he applied for such allowance, he shall receive, when he applies for a trade readjustment allowance and is determined to be entitled to such allowance, a trade readjustment allowance for such week equal to such difference.

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SEC. 233. LIMITATIONS ON TRADE READJUSTMENT ALLOWANCES.

(a)(1) * * *

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[(2) income that is deductible from unemployment insurance under the disqualifying income provisions of the applicable State law or Federal unemployment insurance law.]

(2) A trade readjustment allowance shall not be paid for any week occurring after the close of the 104-week period that begins with the first week following the week in which the adversely affected worker was most recently totally separated from adversely affected employment—

(A) within the period which is described in section 231(a)(1), and

(B) with respect to which the worker meets the requirements of section 231(a)(2).

* * * * * * *

(3) Notwithstanding paragraph (1), in order to assist the adversely affected worker to complete training approved for him under section 236, and in accordance with regulations prescribed by the Secretary, payments may be made as trade readjustment allowances for up to 26 additional weeks in the 26-week period that—

(A) follows the last week of entitlement to trade readjustment allowances otherwise payable under this chapter; or

(B) begins with the first week of such training, if such training [is approved] *begins* after the last week described in subparagraph (A).

Payments for such additional weeks may be made only for weeks in such 26-week period during which the individual is [engaged in such training and has not been determined under section 236(c) to be failing to make satisfactory progress in the training] *participating in such training.*

* * * * * * *

(f) For purposes of this chapter, a worker shall be treated as participating in training during any week which is part of a break in training that does not exceed 14 days if—

(1) the worker was participating in a training program approved under section 236(a) before the beginning of such break in training, and

(2) the break is provided under such training program.

* * * * * * *

PART II—TRAINING, OTHER EMPLOYMENT SERVICES, AND ALLOWANCES

SEC. 235. EMPLOYMENT SERVICES.

The Secretary shall make every reasonable effort to secure for adversely affected workers covered by a certification under subchapter A of this chapter counseling, testing, and placement services, and supportive and other services, provided for under any other Federal law. The Secretary shall, whenever appropriate, procure such services through agreements with [cooperating State agencies] *the States.*

SEC. 236. TRAINING.

(a)(1) If the Secretary determines that—

(A) * * *

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(D) training approved by the Secretary **[**is available**]** *is reasonably available* to the worker from either governmental agencies or private sources (which may include area vocational education schools, as defined in section 195(2) of the Vocational Education Act of 1963, and employers), **[**and**]**

(E) the worker is qualified to undertake and complete such training, *and*

(F) such training is suitable for the worker and available at a reasonable cost,

the Secretary shall **[**(to the extent appropriated funds are available)**]** approve such training for the worker. Upon such approval, the worker shall be entitled to have payment of the costs of such training *(subject to the limitations imposed by this section)* paid on his behalf by the Secretary *directly or through a voucher system.* Insofar as possible, the Secretary shall provide or assure the provision of such training on the job, which shall include related education necessary for the acquisition of skills needed for a position within a particular occupation.

(2)(A) The total amount of payments that may be made under paragraph (1) for any fiscal year shall not exceed **[***$80,000,000***]** *$120,000,000.*[2]

(B) If, during any fiscal year, the Secretary estimates that the amount of funds necessary to pay the costs of training approved under this section will exceed the amount of the limitation imposed under subparagraph (A), the Secretary shall decide how the portion of such limitation that has not been expended at the time of such estimate is to be apportioned among the States for the remainder of such final year.

[(2)**]***(3)* For purposes of applying paragraph (1)(C), a reasonable expectation of employment does not require that employment opportunities for a worker be available, or offered, immediately upon the completion of training approved under this paragraph (1).

[(3)**]** *(4)*(A) If the costs of training an adversely affected worker are paid by the Secretary under paragraph (1), no other payment for such costs may be made under any other provision of Federal law.

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[(4)**]** *(5)* The training programs that may be approved under paragraph (1) include, but are not limited to—

*　*　*　*　*　*　*

(C) any training program approved by a private industry council established under section 102 of such Act, **[**and**]**

(D) any program of remedial education,

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[2] Effective 1 year after the date on which an import fee is imposed pursuant to section 287, the limitation established under subparagraph (A) shall be $120,000,000.

(E) any training program (other than a training program described in paragraph (7)) for which all, or any portion, of the costs of training the worker are paid—

(i) under any Federal or State program other than this chapter, or

(ii) from any source other than this section, and

[(D)] *(F)* any other training program approved by the Secretary.

(6)(A) The Secretary is not required under paragraph (1) to pay the costs of any training approved under paragraph (1) to the extent that such costs are paid—

(i) under any Federal or State program other than this chapter, or

(ii) from any source other than this section.

(B) Before approving any training to which subparagraph (A) may apply, the Secretary may require that the adversely affected worker enter into an agreement with the Secretary under which the Secretary will not be required to pay under this section the portion of the costs of such training that the worker has reason to believe will be paid under the program, or by the source, described in clause (i) or (ii) of subparagraph (A).

(7) The Secretary shall not approve a training program if—

(A) all or a portion of the costs of such training program are paid under any nongovernmental plan or program,

(B) the adversely affected worker has a right to obtain training or funds for training under such plan or program, and

(C) such plan or program requires the worker to reimburse the plan or program from funds provided under this chapter, or from wages paid under such training program, for any portion of the costs of such training program paid under the plan or program.

(8) The Secretary may approve training for any adversely affected worker who is a member of a group certified under subchapter A at any time after the date on which the group is certified under subchapter A, without regard to whether such worker has exhausted all rights to any unemployment insurance to which the worker is entitled.

(9) The Secretary shall prescribe regulations which set forth the criteria under each of the subparagraphs of paragraph (1) that will be used as the basis for making determinations under paragraph (1).

* * * * * * *

[(c) Any adversely affected worker who, without good cause, refuses to accept or continue, or fails to make satisfactory progress in, suitable training to which he has been referred by the Secretary shall not thereafter be entitled to payments under this chapter until he enters or resumes the training to which he has been so referred.]

[(d) Notwithstanding any provision of subsection (a)(1), the Secretary may pay the costs of on-the-job training of an adversely affected worker under subsection (a)(1) only if—]

(c) The Secretary shall pay the costs of any on-the-job training of an adversely affected worker that is approved under subsection (a)(1)

in equal monthly installments, but the Secretary may pay such costs, notwithstanding any other provision of this section, only if—

* * * * * * *

[(e)] *(d)* A worker may not be determined to be ineligible or disqualified for unemployment insurance or program benefits under this subchapter because the individual is in training approved under subsection (a), because of leaving work which is not suitable employment to enter such training, or because of the application to any such week in training of provisions of State law or Federal unemployment insurance law relating to availability for work, active search for work, or refusal to accept work. The Secretary shall submit to the Congress a quarterly report regarding the amount of funds expended during the quarter concerned to provide training under paragraph (1) and the anticipated demand for such funds for any remaining quarters in the fiscal year concerned.

[(f)] *(e)* For purposes of this section the term "suitable employment" means, with respect to a worker, work of a substantially equal or higher skill level than the worker's past adversely affected employment, and wages for such work at not less than 80 percent of the worker's average weekly wage.

* * * * * * *

Subchapter C—General Provisions

SEC. 239. AGREEMENTS WITH STATES.

(a) The Secretary is authorized on behalf of the United States to enter into an agreement with any State, or with any State agency (referred to in this subpart as "cooperating States" and "cooperating States agencies" respectively). Under such an agreement, the cooperating State agency (1) as agent of the United States, will receive applications for, and will provide, payments on the basis provided in this part, (2) where appropriate, but in accordance with subsection (f) of this section, will afford adversely affected workers testing, counseling, referral to training and job search programs, and placement services, [(3) will make determinations and approvals regarding job search programs under section 231(c) and 237(c) of this title,] *(3) will make any certifications required under section 231(c)(2), and* (4) will otherwise cooperate with the Secretary and with other State and Federal agencies in providing payments and services under this part.

* * * * * * *

[(e) Agreements entered into under this section may be made with one or more State or local agencies including—

[(1) the employment service agency of such State,

[(2) any State agency carrying out title III of the Job Training Partnership Act, or

[(3) any other State or local agency administering job training or related programs.]

(e) Any agreement entered into under this section shall provide for the coordination of the administration of the provisions for employment services, training, and supplemental assistance under sections 235 and 236 of this Act and under title III of the Job Training

Partnership Act upon such terms and conditions as are established by the Secretary in consultation with the States and set forth in such agreement. Any agency of the State jointly administering such provisions under such agreement shall be considered to be a cooperating State agency for purposes of this chapter.

[(f) Each cooperating State agency shall, in carrying out subsection (a)(2) of this section—

[(1) advise each adversely affected worker to apply for training under section 236(a) at the time the worker makes application for trade readjustment allowances (but failure of the worker to do so may not be treated as cause for denial of those allowances), and

[(2) within 60 days after application for training is made by the worker, interview the adversely affected worker regarding suitable training opportunities available to the worker under section 236 and review such opportunities with the worker.]

(f) Each cooperating State agency shall, in carrying out subsection (a)(2)—

(1) advise each worker who applies for unemployment insurance of the benefits under this chapter and the procedures and deadlines for applying for such benefits,

(2) facilitate the early filing of petitions under section 221 for any workers that the agency considers are likely to be eligible for benefits under this chapter,

(3) advise each adversely affected worker to apply for training under section 236(a) before, or at the same time, the worker applies for trade readjustment allowances under part I of subchapter B, and

(4) as soon as practicable, interview the adversely affected worker regarding suitable training opportunities available to the worker under section 236 and review such opportunities with the worker.

* * * * * * *

SEC. 245. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of Labor, for each of the fiscal years [1986, 1987, 1988, 1989, 1990 and 1991] *1988, 1989, 1990, 1991, 1992, and 1993*, such sums as may be necessary to carry out the purposes of this part.

* * * * * * *

SEC. 246. SUPPLEMENTAL WAGE ALLOWANCE DEMONSTRATION PROJECTS.

(a) The Secretary shall establish and carry out one or more demonstration projects during fiscal years 1989 and 1990 for the purpose of—

(1) determining the attractiveness of a supplemental wage allowance to various categories of workers eligible for assistance under this chapter, based on the amount and duration of the supplement;

(2) determining the effectiveness of a supplemental wage allowance as an option under this chapter in facilitating the readjustment of adversely affected workers; and

(3) determining whether a supplemental wage allowance should be made an option under the Trade Adjustment Assistance program for all fiscal years.

(b)(1) For purposes of this section, the term "supplemental wage allowance" means a payment that is made to an adversely affected worker who—

(A) accepts full-time employment at an average weekly wage that is less than the average weekly wage of the worker in the adversely affected employment,

(B) prior to such acceptance, is eligible for trade readjustment allowances under part I of subchapter B, and

(C) voluntarily elects to receive such payment in lieu of any trade readjustment allowances that the worker would otherwise be eligible to receive with respect to the period covered by the certification made under subchapter A that applies to such worker.

(2) A supplemental wage allowance shall be provided under any demonstration project established under subsection (a) to a worker described in paragraph (1) for each week during which the worker performs services in the full-time employment referred to in paragraph (1)(A) in an amount that does not exceed the lesser of—

(A) the amount of the trade readjustment allowance that the worker would have been eligible to receive for any week under part 1 of subchapter B if the worker had not accepted the full-time employment and had not made the election described in paragraph (1)(C), or

(B) the excess of—

(i) an amount equal to 80 percent of the average weekly wage of the worker in the adversely affected employment, over

(ii) the average weekly wage in the full-time employment.

(3)(A) Supplemental wage allowances shall not be provided under any demonstration project established under subsection (a) for more than 52 weeks.

(B) The total amount of supplemental wage allowances that may be paid to any worker under any demonstration project established under subsection (a) with respect to the period covered by the certification applicable to such worker shall not exceed an amount that is equal to the excess of—

(i) the amount of the limitation imposed under section 233(a)(1) with respect to such worker for such period, over

(ii) the amount of the trade readjustment allowances paid under part I of subchapter B to such worker for such period.

(c) The Secretary shall provide for an evaluation of demonstration projects conducted under this section to determine at least the following:

(1) the extent to which different age groups of eligible recipients utilize the supplemental wage allowance;

(2) the effect of the amount and duration of the supplemental wage allowance on the utilization of the allowance;

(3) the extent to which the supplemental wage allowance affects the demand for training and the appropriateness thereof;

(4) the extent to which the supplemental wage allowance facilitates the readjustment of workers who would not otherwise utilize benefits provided under this chapter;

(5) the extent to which the allowance affects the cost of carrying out the provisions of this chapter; and

(6) the effectiveness of the supplemental wage allowance as an option under this chapter in facilitating the readjustment of adversely affected workers.

(d) By no later than the date that is 3 years after the date of enactment of the Omnibus Trade and Competitiveness Act of 1988, the Secretary shall transmit to the Congress a report that includes—

(1) an evaluation of the projects authorized under this section that is conducted in accordance with subsection (c), and

(2) a recommendation as to whether the supplemental wage allowance should be available on a permanent basis as an option for some or all workers eligible for assistance under this chapter.

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CHAPTER 3—ADJUSTMENT ASSISTANCE FOR FIRMS

SEC. 251. PETITIONS AND DETERMINATIONS.

(a) * * *

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[(c) The Secretary shall certify a firm (including any agricultural firm) as eligible to apply for adjustment assistance under this chapter if he determines—

[(1) that a significant number or proportion of the workers in such firm have become totally or partially separated, or are threatened to become totally or partially separated,

[(2) that—

[(A) sales or production, or both, of the firm have decreased absolutely, or

[(B) sales or production, or both, of an article that accounted for not less than 25 percent of the total production or sales of the firm during the 12-month period preceding the most recent 12-month period for which data are available have decreased absolutely, and

[(3) that increases of imports of articles like or directly competitive with articles produced by such firm contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

[For purposes of paragraph (3), the term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.]

(c)(1) The Secretary shall certify a firm (including any agricultural firm) as eligible to apply for adjustment assistance under this chapter if the Secretary determines—

(A) that a significant number or proportion of the workers in such firm have become totally or partially separated, or are threatened to become totally or partially separated,

(B) that—

(i) sales or production, or both, of such firm have decreased absolutely, or

(ii) sales or production, or both, of an article that accounted for not less than 25 percent of the total production or sales of the firm during the 12-month period preceding the most recent 12-month period for which data are available have decreased absolutely, and

[*(C) increases of imports of articles like or directly competitive with articles which are produced by such firm contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.*]

(C) increases of imports of articles like or directly competitive with articles—

(i) which are produced by such firm, or

(ii) for which such firm provides essential goods or essential services,[3]

contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

(2) For purposes of paragraph (1)(C)—

(A) The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

(B)(i) Any firm which engages in exploration or drilling for oil or natural gas shall be considered to be a firm producing oil or natural gas.

(ii) Any firm that engages in exploration or drilling for oil or natural gas, or otherwise produces oil or natural gas, shall be considered to be producing articles directly competitive with imports of oil and with imports of natural gas.

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SEC. 256. DELEGATION OF FUNCTIONS TO SMALL BUSINESS ADMINISTRATION: AUTHORIZATION OF APPROPRIATIONS

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(b) There are hereby authorized to be appropriated to the Secretary for fiscal years [1986, 1987, 1988, 1989, 1990, and 1991] *1988, 1989, 1990, 1991, 1992, and 1993* such sums as may be necessary to carry out his functions under this part in connection with furnishing adjustment assistance to firms (including, but not limited to, the payment of principal, interest, and reasonable costs incident to default on loans guaranteed by the Secretary under the authority of this part), which sums are authorized to be appropriated to remain available until expended.

* * * * * * *

SEC. 264. STUDY BY SECRETARY OF COMMERCE WHEN INTERNATIONAL TRADE COMMISSION BEGINS INVESTIGATION; ACTION WHERE THERE IS AFFIRMATIVE FINDING.

(a) Whenever the Commission begins an investigation under section [201] *202* with respect to an industry, the Commission shall immediately notify the Secretary of such investigation, and the Secretary shall immediately begin a study of—

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[3] *Subparagraph (C)(ii) shall take effect 1 year after the date on which an import fee is imposed pursuant to section 287.*

(1) the number of firms in the domestic industry producing the like or directly competitive article which have been or are likely to be certified as eligible for adjustment assistance, and

(2) the extent to which the orderly adjustment of such firms to the import competition may be facilitated through the use of existing programs.

(b) The report of the Secretary of the study under subsection (a) shall be made to the President not later than 15 days after the day on which the Commission makes its report under section [201] *202(f)*. Upon making its report to the President, the Secretary shall also promptly make it public (with the exception of information which the Secretary determines to be confidential) and shall have a summary of it published in the Federal Register.

(c) Whenever the Commission makes an affirmative finding under section [201(b)] *202(b)* that increased imports are a substantial cause of serious injury or threat thereof with respect to an industry, the Secretary shall make available, to the extent feasible, full information to the firms in such industry about programs which may facilitate the orderly adjustment to import competition of such firms, and he shall provide assistance in the preparation and processing of petitions and applications of such firms for program benefits.

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CHAPTER 5—MISCELLANEOUS PROVISIONS

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SEC. 285. PETITIONS.

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[(b) No assistance, allowances, or other payments may be provided under chapter 2, and no technical assistance may be provided under chapter 3, after September 30, 1991.]

(b) No assistance, vouchers, allowances, or other payments may be provided under chapter 2, no technical assistance may be provided under chapter 3, and no duty shall be imposed under section 287, after September 30, 1993.

* * * * * * *

SEC. 286. TRADE ADJUSTMENT ASSISTANCE TRUST FUND.[4]

(a) There is hereby established within the Treasury of the United States a trust fund to be known as the "Trade Adjustment Assistance Trust Fund" (hereinafter in this section referred to as the "Trust Fund"), consisting of such amounts as may be transferred or credited to the Trust Fund as provided in this section or appropriated to the Trust Fund under subsection (e).

(b)(1) The Secretary of the Treasury shall transfer to the Trust Fund out of the general fund of the Treasury of the United States amounts determined by the Secretary of the Treasury to be equiva-

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[4] Section 286 shall take effect on the date on which an import fee is imposed pursuant to section 287.

lent to the amounts received into such general fund that are attributable to the duty imposed by section 287.

(2) The amounts which are required to be transferred under paragraph (1) shall be transferred at least quarterly from the general fund of the Treasury of the United States to the Trust Fund on the basis of estimates made by the Secretary of the Treasury of the amounts referred to in paragraph (1) that are received into the Treasury. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of, or less than, the amounts required to be transferred.

(c)(1) The Secretary of the Treasury shall be the trustee of the Trust Fund, and shall submit an annual report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives on the financial condition and the results of the operations of the Trust Fund during the fiscal year preceding the fiscal year in which such report is submitted and on the expected condition and operations of the Trust Fund during the fiscal year in which such report is submitted and the 5 fiscal years succeeding such fiscal year. Such report shall be printed as a House document of the session of the Congress to which the report is made.

(2)(A) The Secretary of the Treasury shall invest such portion of the Trust Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired—

(i) on original issue at the issue price, or

(ii) by purchase of outstanding obligations at the market price.

(B) Any obligation acquired by the Trust Fund may be sold by the Secretary of the Treasury at the market price.

(C) The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.

(d)(1) Amounts in the Trust Fund shall be available—

(A) for the payment of drawbacks and refunds of the duty imposed by section 287 that are allowable under any other provision of Federal law,

(B) as provided in appropriation Acts—

(i) for expenditures that are required to carry out the provisions of chapters 2 and 3, including administrative costs, and

(ii) for payments required under subsection (e)(2).

(2) None of the amounts in the Trust Fund shall be available for the payment of loans guaranteed under chapter 3 or for any other expenses relating to financial assistance provided under chapter 3.

(3)(A) If the total amount of funds expended in any fiscal year to carry out chapters 2 and 3 (including adminstrative costs) exceeds an amount equal to 0.15 percent of the total value of all articles upon which a duty was imposed by section 287 during the preceding 1-year period, the Secretary of Labor and the Secretary of Commerce (in consultation with the Secretary of the Treasury) shall, notwithstanding any provision of chapter 2 or 3, make a pro rata reduction in—

(i) the amounts of the trade readjustment allowances that are paid under part I of subchapter B of chapter 2, and

(ii) the assistance provided under chapter 3, to ensure (based on estimates of the amount of funds that will be necessary to carry out chapters 2 and 3, and of the amount of revenue that will be raised by section 287, during the remainder of such fiscal year and for the fiscal year succeeding such fiscal year) that all workers and firms eligible for assistance under chapter 2 or 3 receive some assistance under chapter 2 or 3 and that the expenditures made in providing such assistance during the remainder of such fiscal year and the fiscal year succeeding such fiscal year do not exceed the amount of funds available in the Trust Fund to pay for such expenditures.

(B) No reduction may be made under this paragraph in the amount of any trade readjustment allowance payable under part I of subchapter B of chapter 2 to any worker who received such trade readjustment allowance under such part for the week preceding the first week for which such reduction is otherwise being made under this paragraph.

(C) If a pro rata reduction made under subparagraph (A) is in effect at the close of a fiscal year, the Secretary of Labor and the Secretary of Commerce, in consultation with the Secretary of the Treasury, may adjust or modify such reduction at the beginning of the fiscal year succeeding such fiscal year, based on estimates of the amount of funds that will be necessary to carry out chapters 2 and 3, and of the amount of revenue that will be raised by section 287, during that succeeding fiscal year.

(D) Any pro rata reduction made under subparagraph (A), and any pro rata reduction adjusted or modified under subparagraph (C), shall cease to apply after the week in which—

(i) a 1-year period ends during which the total amount of funds that would have been expended to carry out chapters 2 and 3, including adminstrative costs, if such reduction were not in effect did not exceed an amount equal to 0.15 percent of the total value of all articles upon which a duty was imposed during such 1-year period, or

(ii) the Secretary of Labor and the Secretary of Commerce, in consultation with the Secretary of the Treasury, determine that the amount of funds availabe in the Trust Fund are sufficient to carry out chapters 2 and 3 without such reduction.

(e)(1)(A) There are authorized to be appropriated to the Trust Fund, as repayable advances, such sums as may from time to time be necessary to make the epxenditures described in subsection (d)(1)(B).

(B) Any advance appropriated to the Trust Fund under the authority of subparagraph (A) may be paid to the Trust Fund only to the extent that the total amount of advances paid during the fiscal year to the Trust Fund from any appropriation authorized under subparagraph (A) that are outstanding after such advance is paid to the Trust Fund does not exceed the lesser of—

(i) the excess of—

(I) the total amount of funds that the Secretary of the Treasury (in consultation with the Secretary of Labor and the Secretary of Commerce) estimates will be necessary for

the payments and expenditures described in subparagraphs (A) and (B) of subsection (d)(1) for such fiscal year, over

(II) the total amount of funds that the Secretary of the Treasury estimates will be available in the Trust Fund during the fiscal year (determined without regard to any advances made under this subsection during such fiscal year), or

(ii) the excess of—

(I) an amount equal to 0.15 percent of the total value of all articles upon which the Secretary of the Treasury estimates a duty will be imposed by section 287 during such fiscal year, over

(II) the amount described in clause (i)(II).

(2) Advances made to the Trust Fund from appropriations authorized under paragraph (1)(A) shall be repaid, and interest on such advances shall be paid, to the general fund of the Treasury of the United States when the Secretary of the Treasury determines that sufficient funds are available in the Trust Fund for such purposes.

(3) Interest on advances made from appropriations authorized under paragraph (1)(A) shall be at a rate determined by the Secretary of the Treasury (as of the close of the calendar month preceding the month in which the advance is made) to be equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the anticipated period during which the advance will be outstanding.

SEC. 287. IMPOSITION OF ADDITIONAL FEE.[5]

(a) In addition to any other fee imposed by law, there is hereby imposed a fee on all articles entered, or withdrawn from warehouse, for consumption in the customs territory of the United States during any fiscal year.

(b)(1) The rate of the fee imposed by subsection (a) shall be a uniform ad valorem rate proclaimed by the President that is equal to the lesser of—

(A) 0.15 percent, or

(B) the percentage that is sufficient to provide the funding necessary to—

(i) carry out the provisions of chapters 2 and 3, and

(ii) repay any advances made under section 286(e).

(2) The President shall issue a proclamation setting forth the rate of the fee imposed by subsection (a) by no later than the date that is 15 days before the first date on which a fee is imposed under subsection (a).

(3)(A) For each fiscal year succeeding the first fiscal year in which a fee is imposed under subsection (a), the President shall issue a proclamation adjusting the rate of the fee imposed by subsection (a) during such fiscal year to the ad valorem rate that meets the requirements of paragaph (1) for such fiscal year.

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[5] An import fee under section 287 shall take effect 30 days after (1) the President certifies that the GATT allows any country to imposed such a fee, or (2) August 23, 1990, whichever is earlier. The fee will not take effect on August 23, 1990 if the President determines that it is not in the national economic interest.

(B) Any proclamation issued under subparagraph (A) for a fiscal year shall be issued at least 30 days before the beginning of such fiscal year.

(c)(1) Except as otherwise provided in this subsection, duty-free treatment provided with respect to any article under any other provision of law shall not prevent the imposition of a fee with respect to such article by subsection (a).

(2) No fee shall be imposed by subsection (a) with respect to—

(A) any article (other than an article provided for in item 870.40, 870.45, 870.50, 870.55, or 870.60 of the Tariff Schedules of the United States) that is treated as duty-free under schedule 8 of the Tariff Schedules of the United States, or

(B) any article which has a value of less than $1,000.

TITLE III—RELIEF FROM UNFAIR TRADE PRACTICES

[CHAPTER 1—ENFORCEMENT OF UNITED STATES RIGHTS UNDER TRADE AGREEMENTS AND RESPONSE TO CERTAIN FOREIGN TRADE PRACTICES

[SEC. 301. DETERMINATIONS AND ACTION BY PRESIDENT.

[(a) DETERMINATIONS REQUIRING ACTION.—

[(1) IN GENERAL.—If the President determines that action by the United States is appropriate—

[(A) to enforce the rights of the United States under any trade agreement; or

[(B) to respond to any act, policy, or practice of a foreign country or instrumentality that—

[(i) is inconsistent with the provisions of, or otherwise denies benefits to the United States under, any trade agreement, or

[(ii) is unjustifiable, unreasonable, or discriminatory and burdens or restricts United States commerce;

the President shall take all appropriate and feasible action within his power to enforce such rights or to obtain the elimination of such act, policy, or practice.

[(2) SCOPE OF ACTION.—The President may exercise his authority under this section with respect to any goods or sector—

[(A) on a nondiscriminatory basis or solely against the foreign country or instrumentality involved, and

[(B) without regard to whether or not such goods or sector where involved in the act, policy, or practice identified under paragraph (1).

[(b) OTHER ACTION.—Upon making a determination described in subsection (a), the President, in addition to taking action referred to in such subsection, may—

[(1) suspend, withdraw, or prevent the application of, or refrain from proclaiming, benefits of trade agreement concessions to carry out a trade agreement with the foreign country or instrumentality involved;

[(2) impose duties or other import restrictions on the goods of, and, notwithstanding any other provisions of law, fees or restrictions on the services of, such foreign country or instrumentality for such time as he determines appropriate.

[(c) Additional Actions on Services.—

[(1) In general.—Notwithstanding any other provision of law governing any service sector access authorization, and in addition to the authority conferred in subsection (b), the President may—

[(A) restrict, in the manner and to the extent the President deems appropriate, the terms and conditions of any such authorization, or

(B) deny the issuance of any such authorization.

[(2) Affected authorizations.—Actions under paragraph (1) shall apply only with respect to service sector access authorizations granted, or applications therefor pending, on or after the date on which—

[(A) a petition is filed under section 302(a), or

[(B) a determination to initiate an investigation is made by the United States Trade Representative (hereinafter in this chapter referred to as the "Trade Representative", under section 302(c).

[(3) Consultation.—Before the President takes action under subsection (b) or (c) involving the imposition of fees or other restrictions on the services of a foreign country, the Trade Representative shall, if the services involved are subject to regulation by any agency of the Federal Government or of any State, consult, as appropriate, with the head of the agency concerned.

[(d) Presidential Procedures.—

[(1) Action on own motion.—If the President decides to take action under this section and no petition requesting action on the matter involved has been filed under section 302, the President shall publish notice of his determination, including the reasons for the determination in the Federal Register. Unless he determines that expeditious action is required, the President shall provide an opportunity for the presentation of views concerning the taking of such action.

[(2) Action requested by petition.—Not later than 21 days after the date on which he receives the recommendation of the Trade Representative under section 304 with respect to a petition, the President shall determine what action, if any, he will take under this section, and shall publish notice of his determination, including the reasons for the determination, in the Federal Register.

[(e) Definitions; Special Rule for Vessel Construction Subsidies.—For purposes of this section—

[(1) Commerce.—The term "commerce" includes, but is not limited to—

[(A) services (including transfers of information) associated with international trade, whether or not such services are related to specific goods, and

[(B) foreign direct investment by United States persons with implications for trade in goods or services.

[(2) Vessel construction subsidies.—An act, policy, or practice of a foreign country or instrumentality that burdens or restricts United States commerce may include the provision, directly or indirectly, by that foreign country or instrumentality of subsidies for the construction of vessels used in the commercial transportation by water of goods between foreign countries and the United States.

[(3) UNREASONABLE.—The term "unreasonable" means any act, policy, or practice which, while not necessarily in violation of or inconsistent with the international legal rights of the United States, is otherwise deemed to be unfair and inequitable. The term includes, but is not limited to, any act, policy, or practice which denies fair and equitable—

[(A) market opportunities;

[(B) opportunities for the establishment of an enterprise; or

[(C) provision of adequate and effective protection of intellectual property rights.

[(4) UNJUSTIFIABLE.—

[(A) IN GENERAL.—The term "unjustifiable" means any act, policy, or practice which is in violation of, or inconsistent with, the international legal rights of the United States.

[(B) CERTAIN ACTIONS INCLUDED.—The term "unjustifiable" includes, but is not limited to, any act, policy, or practice described in subparagraph (A) which denies national or most-favored-nation treatment, the right of establishment, or protection of intellectual property rights.

[(5) DEFINITION OF DISCRIMINATORY.—The term "discriminatory" includes, where appropriate, any act, policy, or practice which denies national or most-favored-nation treatment to United States goods, services, or investment.

[(6) SERVICE SECTOR ACCESS AUTHORIZATION.—The term "service sector access authorization" means any license, permit, order, or other authorization, issued under the authority of Federal law, that permits a foreign supplier of services access to the United States market in a service sector concerned.

[SEC. 302. INITIATION OF INVESTIGATIONS BY UNITED STATES TRADE REPRESENTATIVE.

[(a) FILING OF PETITION.—

[(1) IN GENERAL.—Any interested person may file a petition with the United States Trade Representative (hereinafter in this chapter referred to as the "Trade Representative") requesting the President to take action under section 301 and setting forth the allegations in support of the request.

[(2) REVIEW OF ALLEGATIONS.—The Trade Representative shall review the allegations in the petition and, not later than forty-five days after the date on which he received the petition, shall determine whether to initiate an investigation.

[(b) DETERMINATIONS REGARDING PETITIONS.—

[(1) NEGATIVE DETERMINATION.—If the Trade Representative determines not to initiate an investigation with respect to a petition, he shall inform the petitioner of the reasons therefor and shall publish notice of the determination, together with a summary of such reasons, in the Federal Register.

[(2) AFFIRMATIVE DETERMINATION.—If the Trade Representative determines to initiate an investigation with respect to a petition, he shall initiate an investigation regarding the issues raised. The Trade Representative shall publish a summary of the petition in the Federal Register and shall, as soon as possible, provide opportunity for the presentation of views concerning the issues, including a public hearing—

[(A) within the thirty-day period after the date of the determination (or on a date after such period if agreed to by the petitioner) if a public hearing within such period is requested in the petition; or

[(B) at such other time if a timely request therefor is made by the petitioner or by any interested person.

[(c) DETERMINATION TO INITIATE BY MOTION OF TRADE REPRESENTATIVE.—

[(1) DETERMINATION TO INITIATE.—If the Trade Representative determines with respect to any matter that an investigation should be initiated in order to advise the President concerning the exercise of the President's authority under section 301, the Trade Representative shall publish such determination in the Federal Register and such determination shall be treated as an affirmative determination under subsection (b)(2).

[(2) CONSULTATION BEFORE INITIATION.—The Trade Representative shall, before making any determination under paragraph (1), consult with appropriate committees established pursuant to section 135.

[SEC. 303. CONSULTATION UPON INITIATION OF INVESTIGATION.

[(a) IN GENERAL.—On the date an affirmative determination is made under section 302(b), the Trade Representative, on behalf of the United States, shall request consultations with the foreign country or instrumentality concerned regarding issues raised in the petition or the determination of the Trade Representative under section 302(c)(1). If the case involves a trade agreement and a mutually acceptable resolution is not reached during the consultation period, if any, specified in the trade agreement, the Trade Representative shall promptly request proceedings on the matter under the formal dispute settlement procedures provided under such agreement. The Trade Representative shall seek information and advice from the petitioner (if any) and the appropriate representatives provided for under section 135 in preparing United States presentations for consultations and dispute settlement proceedings.

[(c) DELAY OF REQUEST FOR CONSULTATIONS FOR UP TO 90 DAYS.—

[(1) IN GENERAL.—Notwithstanding the provisions of subsection (a)—

[(A) the United States Trade Representative may delay for up to 90 days any request for consultations under subsection (a) for the purpose of verifying or improving the petition to ensure an adequate basis for consultation, and

[(B) if such consultations are delayed by reason of subparagraph (A), each time limitation under section 304 shall be extended for the period of such delay.

[(2) Notice and report.—The Trade Representative shall—

[(A) publish notice of any delay under paragraph (1) in the Federal Register, and

[(B) report to Congress on the reasons for such delay in the report required by section 306.

[SEC. 304. RECOMMENDATIONS BY THE TRADE REPRESENTATIVE.

[(a) Recommendations.—

[(1) In general.—On the basis of the investigation under section 302 and the consultations (and the proceedings, if applicable) under section 303 and subject to subsection (b), the Trade Representative shall recommend to the President what action, if any, he should take under section 301 with respect to the matters under investigation. The Trade Representative shall make that recommendation not later than—

[(A) 7 months after the date of the initiation of the investigation under section 302(b)(2) if the petition alleges only an export subsidy covered by the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade (relating to subsidies and countervailing measures and hereinafter referred to in this section as the "Subsidies Agreement");

[(B) 8 months after the date of the investigation initiation if the petition alleges any matter covered by the Subsidies Agreement other than only an export subsidy;

[(C) in the case of a petition involving a trade agreement approved under section 2(a) of the Trade Agreements Act of 1979 (other than the Subsidies Agreement), 30 days after the dispute settlement procedure is concluded; or

[(D) 12 months after the date of the investigation initiation in any case not described in subparagraph (A), (B), or (C).

[(2) Special rule.—In the case of any petition—

[(A) an investigation with respect to which is initiated on or after the date of enactment of the Trade Agreements Act of 1979 (including any petition treated under section 903 of that Act as initiated on such date); and

[(B) to which the 12-month time limitation set forth in subparagraph (D) of paragraph (1) would but for this paragraph apply;

if a trade agreement approved under section 2(a) of such Act of 1979 that relates to any allegation made in the petition applies between the United States and a foreign country or instrumentality before the 12-month period referred to in subparagraph (B) expires, the Trade Representative shall make the recommendation required under paragraph (1) with respect to the petition not later than the close of the period specified in subparagraph (A), (B), or (C), as appropriate, of such paragraph, and for purposes of such subparagraph (A) or (B), the date of the application of such trade agreement between the United States and the foreign country or instrumentality concerned shall be treated as the date on which the investigation with respect to such petition was initiated; except that consultations and proceedings under section 303 need not be undertaken within the period specified in such subparagraph (A), (B), or (C), as the case may be, to the extent that the requirements under such section were complied with before such period begins.

[(3) REPORT IF SETTLEMENT DELAYED.—In any case in which a dispute is not resolved before the close of the minimum dispute settlement period provided for in a trade agreement referred to in paragraph (1)(C) (other than the Subsidies Agreement), the Trade Representative, within 15 days after the close of such period, shall submit a report to Congress setting forth the reasons why the dispute was not resolved within the minimum period, the status of the case at the close of the period, and the prospects for resolution. For purposes of this paragraph, the minimum dispute settlement period provided for under any such trade agreement is the total period of time that results if all stages of the formal dispute settlement procedures are carried out within the time limitations specified in the agreement, but computed without regard to any extension authorized under the agreement of any stage.

[(b) CONSULTATION BEFORE RECOMMENDATION.—Before recommending that the President take action under section 301 with respect to the treatment of any product or service of a foreign country or instrumentality which is the subject of a petition filed under section 302, the Trade Representative, unless he determines that expeditious action is required—

[(1) shall provide opportunity for the presentation of views, including public hearing if requested by any interested person;

[(2) shall obtain advice from the appropriate advisory representatives provided for under section 135; and

[(3) may request the views of the International Trade Commission regarding the probable impact on the economy of the United States of the taking of action with respect to such product or service.

If the Trade Representative does not comply with paragraphs (1) and (2) because expeditious action is required, he shall, after making the recommendation concerned to the President, comply with such paragraphs.

[SEC. 305. REQUESTS FOR INFORMATION.

[(a) IN GENERAL.—Upon receipt of written request therefor from any person, the Trade Representative shall make available to that person information (other than that to which confidentiality applies) concerning—

[(1) the nature and extent of a specific trade policy or practice of a foreign government or instrumentality with respect to particular mechandise, to the extent that such information is available to the Trade Representative or other Federal agencies;

[(2) United States rights under any trade agreement and the remedies which may be available under that agreement and under the laws of the United States; and

[(3) past and present domestic and international proceedings or actions with respect to the policy or practice concerned.

[(b) IF INFORMATION NOT AVAILABLE.—If information that is requested by an interested party under subsection (a) is not available to the Trade Representative or other Federal agencies, the Trade Representative shall, within 30 days after receipt of the request—

[(1) request the information from the foreign government; or

[(2) decline to request the information and inform the person in writing of the reasons for the refusal.

[(c) CERTAIN BUSINESS INFORMATION NOT MADE AVAILABLE.—

[(1) IN GENERAL.—Except as provided in paragraph (2), and notwithstanding any other provision of law (including section 552 of title 5, United States Code), no information requested and received by the Trade Representative in aid of any investigation under this chapter shall be made available to any person if—

[(A) the person providing such information certifies that—

[(i) such information is business confidential,

[(ii) the disclosure of such information would endanger trade secrets or profitability, and

[(iii) such information is not generally available;

[(B) the Trade Representative determines that such certification is well-founded; and

[(C) to the extent required in regulations prescribed by the Trade Representative, the person providing such information provides an adequate nonconfidential summary of such information.

[(2) USE OF INFORMATION.—The Trade Representative may—

[(A) use such information, or make such information available (in his own discretion) to any employee of the Federal Government for use, in any investigation under this chapter, or

[(B) may make such information available to any other person in a form which cannot be associated with, or otherwise identify, the person providing the information.

[SEC. 306. ADMINISTRATION.

[The Trade Representative shall—

[(1) issue regulations concerning the filing of petitions and the conduct of investigations and hearings under this chapter;

[(2) keep the petitioner regularly informed of all determinations and developments regarding his case under this section, including the reasons for any undue delays; and

[(3) submit a report to the House of Representatives and the Senate semiannually describing the petitions filed and the determinations made (and reasons therefor) under section 302, developments in and current status of each such proceeding, and the actions taken, or the reasons for no action, by the President under section 301.]

CHAPTER 1—ENFORCEMENT OF UNITED STATES RIGHTS UNDER TRADE AGREEMENTS AND RESPONSE TO CERTAIN FOREIGN TRADE PRACTICES

SEC. 301. ACTIONS BY UNITED STATES TRADE REPRESENTATIVE.

(a) MANDATORY ACTION.—

(1) If the United States Trade Representative determines under section 304(a)(1) that—

(A) the rights of the United States under any trade agreement are being denied; or

(B) an act, policy, or practice of a foreign country—

(i) violates, or is inconsistent with, the provisions of, or otherwise denies benefits to the United States under, any trade agreement, or

(ii) is unjustifiable and burdens or restricts United States commerce;

the Trade Representative shall take action authorized in subsection (c), subject to the specific direction, if any, of the President regarding any such action, and shall take all other appropriate and feasible action within the power of the President that the President may direct the Trade Representative to take under this subsection, to enforce such rights or to obtain the elimination of such act, policy, or practice.

(2) The Trade Representative is not required to take action under paragraph (1) in any case in which—

(A) the Contracting Parties to the General Agreement on Tariffs and Trade have determined, a panel of experts has reported to the Contracting Parties, or a ruling issued under the formal dispute settlement proceeding provided under any other trade agreement finds, that—

(i) the rights of the United States under a trade agreement are not being denied, or

(ii) the act, policy, or practice—

(I) is not a violation of, or inconsistent with, the rights of the United States, or

(II) does not deny, nullify, or impair benefits to the United States under any trade agreement; or

(B) the Trade Representative finds that—

(i) the foreign country is taking satisfactory measures to grant the rights of the United States under a trade agreement,

(ii) the foreign country has—

(I) agreed to eliminate or phase out the act, policy, or practice, or

(II) agreed to an imminent solution to the burden or restriction on United States commerce that is satisfactory to the Trade Representative,

(iii) it is impossible for the foreign country to achieve the results described in clause (i) or (ii), as appropriate, but the foreign country agrees to provide to the United States compensatory trade benefits that are satisfactory to the Trade Representative,

(iv) in extraordinary cases, where the taking of action under this subsection would have an adverse impact on the United States economy substantially out of proportion to the benefits of such action, taking into account the impact of not taking such action on the credibility of the provisions of this chapter, or

(v) the taking of action under this subsection would cause serious harm to the national security of the United States.

(3) Any action taken under paragraph (1) to eliminate an act, policy, or practice shall be devised so as to affect goods or services of the foreign country in an amount that is equivalent in value to the burden or restriction being imposed by that country on United States commerce.

(b) Discretionary Action.—If the Trade Representative determines under section 304(a)(1) that—

(1) an act, policy, or practice of a foreign country is unreasonable or discriminatory and burdens or restricts United States commerce, and

(2) action by the United States is appropriate, the Trade Representative shall take all appropriate and feasible action authorized under subsection (c), subject to the specific direction, if any, of the President regarding any such action, and all other appropriate and feasible action within the power of the President that the President may direct the Trade Representative to take under this subsection, to obtain the elimination of that act, policy, or practice.

(c) Scope of Authority.—

(1) For purposes of carrying out the provisions of subsection (a) or (b), the Trade Representative is authorized to—

(A) suspend, withdraw, or prevent the application of, benefits of trade agreement concessions to carry out a trade agreement with the foreign country referred to in such subsection;

(B) impose duties or other import restrictions on the goods of, and, notwithstanding any other provision of law, fees or restrictions on the services of, such foreign country for such time as the Trade Representative determines appropriate; or

(C) enter into binding agreements with such foreign country that commit such foreign country to—

(i) eliminate, or phase out, the act, policy, or practice that is the subject of the action to be taken under subsection (a) or (b),

(ii) eliminate any burden or restriction on United States commerce resulting from such act, policy, or practice, or

(iii) provide the United States with compensatory trade benefits that—

(I) are satisfactory to the Trade Representative, and

(II) meet the requirements of paragraph (4).

(2)(A) Notwithstanding any other provision of law governing any service sector access authorization, and in addition to the authority conferred in paragraph (1), the Trade Representative may, for purposes of carrying out the provisions of subsection (a) or (b)—

(i) restrict, in the manner and to the extent the Trade Representative determines appropriate, the terms and conditions of any such authorization, or

(ii) deny the issuance of any such authorization.

(B) Actions described in subparagraph (A) may only be taken under this section with respect to service sector access authorizations granted, or applications therefor pending, on or after the date on which—

(i) a petition if filed under section 302(a), or

(ii) a determination to initiate an investigation is made by the Trade Representative under section 302(b).

(C) Before the Trade Representative takes any action under this section involving the imposition of fees or other restrictions on the services of a foreign country, the Trade Representative shall, if the services involved are subject to regulation by any agency of the Federal Government or of any State, consult, as appropriate, with the head of the agency concerned.

(3) The actions the Trade Representative is authorized to take under subsection (a) or (b) may be taken against any goods or economic sector—

(A) on a nondiscriminatory basis or solely against the foreign country described in such subsection, and

(B) without regard to whether or not such goods or economic sector were involved in the act, policy, or practice that is the subject of such action.

(4) Any trade agreement described in paragraph (1)(C)(iii) shall provide compensatory trade benefits that benefit the economic sector which includes the domestic industry that would benefit from the elimination of the act, policy, or practice that is the subject of the action to be taken under subsection (a) or (b), or benefit the economic sector as closely related as possible to such economic sector, unless—

(A) the provision of such trade benefits is not feasible, or

(B) trade benefits that benefit any other economic sector would be more satisfactory than such trade benefits.

(5) In taking actions under subsection (a) or (b), the Trade Representative shall—

(A) give preference to the imposition of duties over the imposition of other import restrictions, and

(B) if an import restriction other than a duty is imposed, consider substituting, on an incremental basis, an equivalent duty for such other import restriction.

(6) Any action taken by the Trade Representative under this section with respect to export targeting shall, to the extent possible, reflect the full benefit level of the export targeting to the beneficiary over the period during which the action taken has an effect.

(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this chapter—

(1) The term "commerce" includes, but is not limited to—

(A) services (including transfers of information) associated with international trade, whether or not such services are related to specific goods, and

(B) foreign direct investment by United States persons with implications for trade in goods or services.

(2) An act, policy, or practice of a foreign country that burdens or restricts United States commerce may include the provi-

sion, directly or indirectly, by that foreign country of subsidies for the construction of vessels used in the commercial transportation by water of goods between foreign countries and the United States.

(3)(A) An act, policy, or practice is unreasonable if the act, policy, or practice, while not necessarily in violation of, or inconsistent with, the international legal rights of the United States, is otherwise unfair and inequitable.

(B) Acts, policies, and practices that are unreasonable include, but are not limited to, any act, policy, or practice, or any combination of acts, policies, or practices, which—

(i) denies fair and equitable—

(I) opportunities for the establishment of an enterprise,

(II) provision of adequate and effective protection of intellectual property rights, or

(III) market opportunities, including the toleration by a foreign government of systematic anticompetitive activities by private firms or among private firms in the foreign country that have the effect of restricting, on a basis that is inconsistent with commercial considerations, access of United States goods to purchasing by such firms,

(ii) constitutes export targeting, or

(iii) constitutes a persistent pattern of conduct that—

(I) denies workers the right of association,

(II) denies workers the right to organize and bargain collectively,

(III) permits any form of forced or compulsory labor,

(IV) fails to provide a minimum age for the employment of children, or

(V) fails to provide standards for minimum wages, hours of work, and occupational safety and health of workers.

(C)(i) Acts, policies, and practices of a foreign country described in subparagraph (B)(iii) shall not be treated as being unreasonable if the Trade Representative determines that—

(I) the foreign country has taken, or is taking, actions that demonstrate a significant and tangible overall advancement in providing throughout the foreign country (including any designated zone within the foreign country) the rights and other standards described in the subclauses of subparagraph (B)(iii), or

(II) such acts, policies, and practices are not inconsistent with the level of economic development of the foreign country.

(ii) The Trade Representative shall publish in the Federal Register any determination made under clause (i), together with a description of the facts on which such determination is based.

(D) For purposes of determining whether any act, policy, or practice is unreasonable, reciprocal opportunities in the United States for foreign nationals and firms shall be taken into account, to the extent appropriate.

(E) The term "export targeting" means any government plan or scheme consisting of a combination of coordinated actions (whether carried out severally or jointly) that are bestowed on a specific enterprise, industry, or group thereof, the effect of which is to assist the enterprise, industry, or group to become more competitive in the export of a class or kind of merchandise.

(4)(A) An act, policy, or practice is unjustifiable if the act, policy, or practice is in violation of, or inconsistent with, the international legal rights of the United States.

(B) Acts, policies, and practices that are unjustifiable include, but are not limited to, any act, policy, or practice described in subparagraph (A) which denies national or most-favored-nation treatment or the right of establishment or protection of intellectual property rights.

(5) Acts, policies, and practices that are discriminatory include, when appropriate, any act, policy, and practice which denies national or most-favored-nation treatment to United States goods, services, or investment.

(6) The term "service sector access authorization" means any license, permit, order, or other authorization, issued under the authority of Federal law, that permits a foreign supplier of services access to the United States market in a service sector concerned.

(7) The term "foreign country" includes any foreign instrumentality. Any possession or territory of a foreign country that is administered separately for customs purposes shall be treated as a separate foreign country.

(8) The term "Trade Representative" means the United States Trade Representative.

(9) The term "interested persons", only for purposes of sections 302(a)(4)(B), 304(b)(1)(A), 306(c)(2), and 307(a)(2), includes, but is not limited to, domestic firms and workers, representatives of consumer interests, United States product exporters, and any industrial user of any goods or services that may be affected by actions taken under subsection (a) or (b).

SEC. 302. INITIATION OF INVESTIGATIONS.

(a) PETITIONS.—

(1) Any interested person may file a petition with the Trade Representative requesting that action be taken under section 301 and setting for the allegations in support of the request.

(2) The Trade Representative shall review the allegations in any petition filed under paragraph (1) and, not later than 45 days after the date on which the Trade Representative received the petition, shall determine whether to initiate an investigation.

(3) If the Trade Representative determines not to initiate an investigation with respect to a petition, the Trade Representative shall inform the petitioner of the reasons therefor and shall publish notice of the determination, together with a summary of such reasons, in the Federal Register.

(4) If the Trade Representative makes an affirmative determination under paragraph (2) with respect to a petition, the Trade

Representative shall initiate an investigation regarding the issues raised in the petition. The Trade Representative shall publish a summary of the petition in the Federal Register and shall, as soon as possible, provide opportunity for the presentation of views concerning the issues, including a public hearing—

(A) within the 30-day period beginning on the date of the affirmative determination (or on a date after such period if agreed to by the petitioner) if a public hearing within such period is requested in the petition, or

(B) at such other time if a timely request therefor is made by the petitioner or by any interested person.

(b) INITIATION OF INVESTIGATION BY MEANS OTHER THAN PETITION.—

(1)(A) If the Trade Representative determines that an investigation should be initiated under this chapter with respect to any matter in order to determine whether the matter is actionable under section 301, the Trade Representative shall publish such determination in the Federal Register and shall initiate such investigation.

(B) The Trade Representative shall, before making any determination under subparagraph (A), consult with appropriate committees established pursuant to section 135.

(2)(A) By no later than the date that is 30 days after the date on which a country is identified under section 182(a)(2), the Trade Representative shall initiate an investigation under this chapter with respect to any act, policy, or practice of that country that—

(i) was the basis for such identification, and

(ii) is not at that time the subject of any other investigation or action under this chapter.

(B) The Trade Representative is not required under subparagraph (A) to initiate an investigation under this chapter with respect to any act, policy, or practice of a foreign country if the Trade Representative determines that the initiation of the investigation would be detrimental to United States economic interests.

(C) If the Trade Representative makes a determination under subparagraph (B) not to initiate an investigation, the Trade Representative shall submit to the Congress a written report setting forth, in detail—

(i) the reasons for the determination, and

(ii) the United States economic interests that would be adversely affected by the investigation.

(D) The Trade Representative shall, from time to time, consult with the Register of Copyrights, the Commissioner of Patents and Trademarks, and other appropriate officers of the Federal Government, during any investigation initiated under this chapter by reason of subparagraph (A).

(c) DISCRETION.—In determining whether to initiate an investigation under subsection (a) or (b) of any act, policy, or practice that is enumerated in any provision of section 301(d), the Trade Representative shall have discretion to determine whether action under section 301 would be effective in addressing such act, policy, or practice.

SEC. 303. CONSULTATION UPON INITIATION OF INVESTIGATION.

(a) IN GENERAL.—

(1) On the date on which an investigation is initiated under section 302, the Trade Representative, on behalf of the United States, shall request consultations with the foreign country concerned regarding the issues involved in such investigation.

(2) If the investigation initiated under section 302 involves a trade agreement and a mutually acceptable resolution is not reached before the earlier of—

(A) the close of the consultation period, if any, specified in the trade agreement, or

(B) the 150th day after the day on which consultation was commenced,

the Trade Representative shall promptly request proceedings on the matter under the formal dispute settlement procedures provided under such agreement.

(3) The Trade Representative shall seek information and advice from the petitioner (if any) and the appropriate committees established pursuant to section 135 in preparing United States presentations for consultations and dispute settlement proceedings.

(b) DELAY OF REQUEST FOR CONSULTATIONS.—

(1) Notwithstanding the provisions of subsection (a)—

(A) the United States Trade Representative may, after consulting with the petitioner (if any), delay for up to 90 days any request for consultations under subsection (a) for the purpose of verifying or improving the petition to ensure an adequate basis for consultation, and

(B) if such consultations are delayed by reason of subparagraph (A), each time limitation under section 304 shall be extended for the period of such delay.

(2) The Trade Representative shall—

(A) publish notice of any delay under paragraph (1) in the Federal Register, and

(B) report to Congress on the reasons for such delay in the report required under section 309(a)(3).

SEC. 304. DETERMINATIONS BY THE TRADE REPRESENTATIVE.

(a) IN GENERAL.—

(1) On the basis of the investigation initiated under section 302 and the consultations (and the proceeding, if applicable) under section 303, the Trade Representative shall—

(A) determine whether—

(i) the rights to which the United States is entitled under any trade agreement are being denied, or

(ii) any act, policy, or practice described in subsection (a)(1)(B) or (b)(1) of section 301 exists, and

(B) if the determination made under subparagraph (A) is affirmative, determine what action, if any, the Trade Representative should take under subsection (a) or (b) of section 301.

(2) The Trade Representative shall make the determinations required under paragraph (1) on or before—

(A) in the case of any investigation involving a trade agreement (other than the agreement on subsidies and countervailing measures described in section 2(c)(5) of the Trade Agreements Act of 1979), the earlier of—

(i) the date that is 30 days after the date on which the dispute settlement procedure is concluded, or

(ii) the date that is 18 months after the date on which the investigation is initiated, or

(B) in all cases not described in suparagraph (A) or paragraph (3), the date that is 12 months after the date on which the investigation is initiated.

(3)(A) If an investigation is initiated under this chapter by reason of section 302(b)(2) and the Trade Representative does not make a determination described in subparagraph (B) with respect to such investigation, the Trade Representative shall make the determinations required under paragraph (1) with respect to such investigation by no later than the date that is 6 months after the date on which such investigation is initiated.

(B) If the Trade Representative determines with respect to any investigation initiated by reason of section 302(b)(2) that—

(i) complex or complicated issues are involved in the investigation that require additional time,

(ii) the foreign country involved in the investigation is making substantial progress in drafting or implementing legislative or administrative measures that will provide adequate and effective protection of intellectual property rights, or

(iii) such foreign country is undertaking enforcement measures to provide adequate and effective protection of intellectual property rights,

the Trade Representative shall publish in the Federal Register notice of such determination and shall make the determinations required under paragraph (1) with respect to such investigation by no later than the date that is 9 months after the date on which such investigation is initiated.

(4) In any case in which a dispute is not resolved before the close of the minimum settlement period provided for in a trade agreement (other than the agreement on subsidies and countervailing measures described in section 2(c)(5) of the Trade Agreements Act of 1979), the Trade Representative, within 15 days after the close of such dispute settlement period, shall submit a report to Congress setting forth the reasons why the dispute was not resolved within the minimum dispute settlement period, the status of the case at the close of the period, and the prospects for resolution. For purposes of this paragraph, the minimum dispute settlement period provided for under any such trade agreement is the total period of time that results if all stages of the formal dispute settlement procedures are carried out within the time limitations specified in the agreement, but computed without regard to any extension authorized under the agreement at any stage.

(b) CONSULTATION BEFORE DETERMINATIONS.—

(1) Before making the determinations required under subsection (a)(1), the Trade Representative, unless expeditious action is required—

(A) shall provide an opportunity (after giving not less than 30 days notice thereof) for the presentation of views by interested persons, including a public hearing if requested by any interested person,

(B) shall obtain advice from the appropriate committees established pursuant to section 135, and

(C) may request the views of the United States International Trade Commission regarding the probable impact on the economy of the United States of the taking of action with respect to any goods or service.

(2) If the Trade Representative does not comply with the requirements of subparagraphs (A) and (B) of paragraph (1) because expeditious action is required, the Trade Representative shall, after making the determinations under subsection (a)(1), comply with such subparagraphs.

(c) PUBLICATION.—The Trade Representative shall publish in the Federal Register any determinations made under subsection (a)(1), together with a description of the facts on which such determination is based.

SEC. 305. IMPLEMENTATION OF ACTIONS.

(a) ACTIONS TO BE TAKEN UNDER SECTION 301.—

(1) Except as provided in paragraph (2), the Trade Representative shall implement the action the Trade Representative determines under section 304(a)(1)(B) to take under section 301, subject to the specific direction, if any, of the President regarding any such action, by no later than the date that is 30 days after the date on which such determination is made.

(2)(A) Except as otherwise provided in this paragraph, the Trade Representative may delay, by not more than 180 days, the implementation of any action that is to be taken under section 301—

(i) if—

(I) in the case of an investigation initiated under section 302(a), the petitioner requests a delay, or

(II) in the case of an investigation initiated under section 302(b)(1) or to which section 304(a)(3)(B) applies, a delay is requested by a majority of the representatives of the domestic industry that would benefit from the action, or

(ii) if the Trade Representative determines that substantial progress is being made, or that a delay is necessary or desirable, to obtain United States rights or a satisfactory solution with respect to the acts, policies, or practices that are the subject of the action.

(B) The Trade Representative may not delay under subparagraph (A) the implementation of any action that is to be taken under section 301 with respect to any investigation to which section 304(a)(3)(A) applies.

(C) The Trade Representative may not delay under subparagraph (A) the implementation of any action that is to be taken

under section 301 with respect to any investigation to which section 304(a)(3)(B) applies by more than 90 days.

(b) Alternative Actions in Certain Cases of Export Targeting.—

(1) If the Trade Representative makes an affirmative determination under section 304(a)(1)(A) involving export targeting by a foreign country and determines to take no action under section 301 with respect to such affirmation determination, the Trade Representative—

(A) shall establish an advisory panel to recommend measures which will promote the competitiveness of the domestic industry affected by the export targeting,

(B) on the basis of the report of such panel submitted under paragraph (2)(B) and subject to the specific direction, if any, of the President, may take any administrative actions authorized under any other provision of law, and, if necessary, propose legislation to implement any other actions, that would restore or improve the international competitiveness of the domestic industry affected by the export targeting, and

(C) shall, by no later than the date that is 30 days after the date on which the report of such panel is submitted under paragraph (2)(B), submit a report to the Congress on the administrative actions taken, and legislative proposals made, under subparagraph (B) with respect to the domestic industry affected by the export targeting.

(2)(A) The advisory panels established under paragraph (1)(A) shall consist of individuals appointed by the Trade Representative who—

(i) earn their livelihood in the private sector of the economy, including individuals who represent management and labor in the domestic industry affected by the export targeting that is the subject of the affirmative determination made under section 304(a)(1)(A), and

(ii) by education or experience, are qualified to serve on the advisory panel.

(B) By no later than the date that is 6 months after the date on which an advisory panel is established under paragraph (1)(A), the advisory panel shall submit to the Trade Representative and to the Congress a report on measures that the advisory panel recommends be taken by the United States to promote the competitiveness of the domestic industry affected by the export targeting that is the subject of the affirmative determination made under section 304(a)(1)(A).

SEC. 306. MONITORING OF FOREIGN COMPLIANCE.

(a) In General.—The Trade Representative shall monitor the implementation of each measure undertaken, or agreement of a kind described in clause (i), (ii), or (iii) of section 301(a)(2)(B) that is entered into under subsection (a) or (b) of section 301, by a foreign country—

(1) to enforce the rights of the United States under any trade agreement, or

(2) to eliminate any act, policy, or practice described in subsection (a)(1)(B) or (b)(1) of section 301.

(b) Further Action.—If, on the basis of the monitoring carried out under subsection (a), the Trade Representative considers that a foreign country is not satisfactorily implementing a measure or agreement referred to in subsection (a), the Trade Representative shall determine what further action the Trade Representative shall take under section 301(a). For purposes of section 301, any such determination shall be treated as a determination made under section 304(a)(1).

(c) Consultations.—Before making any determination under subsection (b), the Trade Representative shall—

(1) consult with the petitioner, if any, involved in the initial investigation under this chapter and with representatives of the domestic industry concerned; and

(2) provide an opportunity for the presentation of views by interested persons.

SEC. 307. MODIFICATION AND TERMINATION OF ACTIONS.

(a) In General.—

(1) The Trade Representative may modify or terminate any action, subject to the specific direction, if any, of the President with respect to such action, that is being taken under section 301 if—

(A) any of the conditions described in section 301(a)(2) exist,

(B) the burden or restriction on United States commerce of the denial rights, or of the acts, policies, and practices, that are the subject of such action has increased or decreased, or

(C) such action is being taken under section 301(b) and is no longer appropriate.

(2) Before taking any action under paragraph (1) to modify or terminate any action taken under section 301, the Trade Representative shall consult with the petitioner, if any, and with representatives of the domestic industry concerned, and shall provide opportunity for the presentation of views by other interested persons affected by the proposed modification or termination concerning the effects of the modification or termination and whether any modification or termination of the action is appropriate.

(b) Notice; Report to Congress.—The Trade Representative shall promptly publish in the Federal Register notice of, and report in writing to the Congress with respect to, any modification or termination of any action taken under section 301 and the reasons therefor.

(c) Review of Necessity.—

(1) If—

(A) a particular action has been taken under section 301 during any 4-year period, and

(B) neither the petitioner nor any representative of the domestic industry which benefits from such action has submitted to the Trade Representative during the last 60 days

of such 4-year period a written request for the continuation of such action,

such action shall terminate at the close of such 4-year period.

(2) The Trade Representative shall notify by mail the petitioner and representatives of the domestic industry described in paragraph (1)(B) of any termination of action by reason of paragraph (1) at least 60 days before the date of such termination.

(3) If a request is submitted to the Trade Representative under paragraph (1)(B) to continue taking a particular action under section 301, the Trade Representative shall conduct a review of—

(A) the effectiveness in achieving the objectives of section 301 of—

(i) such action, and

(ii) other actions that could be taken (including actions against other products or services), and

(B) the effects of such actions on the United States economy, including consumers.

SEC. 308. REQUEST FOR INFORMATION.

(a) IN GENERAL.—Upon receipt of written request therefor from any person, the Trade Representative shall make available to that person information (other than that to which confidentiality applies) concerning—

(1) the nature and extent of a specific trade policy or practice of a foreign country with respect to particular goods, services, investment, or intellectual property rights, to the extent that such information is available to the Trade Representative or other Federal agencies;

(2) United States rights under any trade agreement and the remedies which may be available under that agreement and under the laws of the United States; and

(3) past and present domestic and international proceedings or actions with respect to the policy or practice concerned.

(b) IF INFORMATION NOT AVAILABLE.—If information that is requested by a person under subsection (a) is not available to the Trade Representative or other Federal agencies, the Trade Representative shall, within 30 days after receipt of the request—

(1) request the information from the foreign government; or

(2) decline to request the information and inform the person in writing of the reasons for refusal.

(c) CERTAIN BUSINESS INFORMATION NOT MADE AVAILABLE.—

(1) Except as provided in paragraph (2), and notwithstanding any other provision of law (including section 552 of title 5, United States Code), no information requested and received by the Trade Representative in aid of any investigation under this chapter shall be made available to any person if—

(A) the person providing such information certifies that—

(i) such information is business confidential,

(ii) the disclosure of such information would endanger trade secrets or profitability, and

(iii) such information is not generally available;

(B) the Trade Representative determines that such certification is well-founded; and

(C) to the extent required in regulations prescribed by the Trade Representative, the person providing such information provides an adequate nonconfidential summary of such information.

(2) The Trade Representative may—

(A) use such information, or make such information available (in his own discretion) to any employee of the Federal Government for use, in any investigation under this chapter, or

(B) may make such information available to any other person in a form which cannot be associated with, or otherwise identify, the person providing the information.

SEC. 309. ADMINISTRATION.

The Trade Representative shall—

(1) issue regulations concerning the filing of petitions and the conduct of investigations and hearings under this subchapter,

(2) keep the petitioner regularly informed of all determinations and developments regarding the investigation conducted with respect to the petition under this chapter, including the reasons for any undue delays, and

(3) submit a report to the House of Representatives and the Senate semiannually describing—

(A) the petitions filed and the determinations made (and reasons therefor) under section 302,

(B) developments in, and the current status of, each investigation or proceeding under this chapter,

(C) the actions taken, or the reasons for no action, by the Trade Representative under section 301 with respect to investigations conducted under this chapter, and

(D) the commercial effects of actions taken under section 301.

SEC. 310. IDENTIFICATION OF TRADE LIBERALIZATION PRIORITIES.

(a) IDENTIFICATION.—

(1) By no later than the date that is 30 days after the date in calendar year 1989, and also the date in calendar year 1990, on which the report required under section 181(b) is submitted to the appropriate Congressional committees, the Trade Representative shall identify United States trade liberalization priorities, including—

(A) priority practices, including major barriers and trade distorting practices, the elimination of which are likely to have the most significant potential to increase United States exports, either directly or through the establishment of a beneficial precedent;

(B) priority foreign countries that, on the basis of such report, satisfy the criteria in paragraph (2);

(C) estimate the total amount by which United States exports of goods and services to each foreign country identified under subparagraph (B) would have increased during the preceding calendar year if the priority practices of such country identified under subparagraph (A) did not exist; and

(D) submit to the Committee on Finance of the Senate, the Committee on Ways and Means of the House of Representatives, and publish in the Federal Register, a report which lists—

(i) the priority foreign countries identified under subparagraph (B),

(ii) the priority practices identified under subparagraph (A) with respect to each of such priority foreign countries, and

(iii) the amount estimated under subparagraph (C) with respect to each of such priority foreign countries.

(2) In identifying priority foreign countries under paragraph (1)(B), the Trade Representative shall take into account—

(A) the number and pervasiveness of the acts, policies, and practices described in section 181(a)(1)(A), and

(B) the level of United States exports of goods and services that would be reasonably expected from full implementation of existing trade agreements to which that foreign country is a party, based on the international competitive position and export potential of such products and services.

(3) In identifying priority practices under paragraph (1)(A), the Trade Representative shall take into account—

(A) the international competitive position and export potential of United States products and services,

(B) circumstances in which the sale of a small quantity of a product or service may be more significant than its value, and

(C) the measurable medium-term and long-term implications of government procurement commitments to United States exporters.

(b) Initiation of Investigations.—By no later than the date that is 21 days after the date on which a report is submitted to the appropriate Congressional committees under subsection (a)(1)(D), the Trade Representative shall initiate under section 302(b)(1) investigations under this chapter with respect to all of those priority practices identified in such report by reason of subsection (a)(1)(D) for each of the priority foreign countries. The Trade Representative may initiate investigations under section 302(b)(1) with respect to all other priority practices identified under subsection (a)(1)(A).

(c) Agreements for the Elimination of Barriers.—

(1) In the consultations with a priority foreign country identified under subsection (a)(1) that the Trade Representative is required to request under section 303(a) with respect to an investigation initiated by reason of subsection (b), the Trade Representative shall seek to negotiate an agreement which provides for—

(A) the elimination of, or compensation for, the priority practices identified under subsection (a)(1)(A) by no later than the close of the 3-year period beginning on the date on which such investigation is initiated, and

(B) the reduction of such practices over a 3-year period with the expectation that United States exports to the foreign country will, as a result, increase incrementally during each year with such 3-year period.

(2) Any investigation initiated under this chapter by reason of subsection (b) shall be suspended if an agreement described in subparagraphs (A) and (B) of paragraph (1) is entered into with the foreign country before the date on which any action under section 301 with respect to such investigation may be required under section 305(a) to be implemented.

(3) If an agreement described in paragraph (1) is entered into with a foreign country before the date on which any action under section 301 with respect to such investigation may be required under section 305(a) to be implemented and the Trade Representative determines that the foreign country is not in compliance with such agreement, the Trade Representative shall continue the investigation that was suspended by reason of such agreement as though such investigation had not been suspended.

(d) ANNUAL REPORTS.—

(1) On the date on which the report the Trade Representative is required to submit under subsection (a)(1)(D) in calendar year 1990, and on the anniversary of such date in the succeeding calendar years, the Trade Representative shall submit a report which includes—

(A) revised estimates of the total amount determined under subsection (a)(1)(C) for each priority foreign country that has been identified under subsection (a)(1)(B),

(B) evidence that demonstrates, in the form of increased United States exports to each of such priority foreign countries during the previous calendar year—

(i) in the case of a priority foreign country that has entered into an agreement described in subsection (c)(1), substantial progress during each year within the 3-year period described in subsection (c)(1)(A) toward the goal of eliminating the priority practices identified under subsection (a)(1)(A) by the close of such 3-year period, and

(ii) in the case of a country which has not entered into (or has not complied with) an agreement described in subsection (c)(1), the elimination of such practices, and

(C) to the extent that the evidence described in subparagraph (B) cannot be provided, any actions that have been taken by the Trade Representative under section 301 with respect to such priority practices of each of such foreign countries.

(2) The Trade Representative may exclude from the requirements of paragraph (1) in any calendar year beginning after 1993 any foreign country that has been identified under subsection (a)(1)(A) if the evidence submitted under paragraph (1)(B) in the 2 previous reports demonstrated that all the priority practices identified under subsection (a)(1)(A) with respect to such foreign country have been eliminated.

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TITLE IV—TRADE RELATIONS WITH COUNTRIES NOT CURRENTLY RECEIVING NONDISCRIMINATORY TREATMENT

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SEC. 404. EXTENSION OF NONDISCRIMINATORY TREATMENT.

(a) * * *

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(c) The President may at any time suspend or withdraw any extension of nondiscriminatory treatment to any country pursuant to subsection (a), and thereby cause all products of such country to be dutiable at the rates set forth in rate column numbered 2 of the [Tariff Schedules for the United States] *Harmonized Tariff Schedule of the United States*

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SEC. 406. MARKET DISRUPTION.

(a)(1) Upon the filing of a petition by an entity described in section [201(a)(1)] *202(a)*, upon request of the President or the United States Trade Representative, upon resolution of either the Committee on Ways and Means of the House of Representatives or the Committee on Finance of the Senate, or on its own motion, the International Trade Commission (hereafter in this section referred to as the "Commission") shall promptly make an investigation to determine, with respect to imports of an article which is the product of a Communist country, whether market disruption exists with respect to an article produced by a domestic industry.

(2) The provisions of [subsections (a)(2), (b)(3), and (c) of section 201] *subsections (a)(3), (b)(4), and (c)(4) of section 202* shall apply with respect to investigations by the Commission under paragraph (1).

* * * * * * *

[(b) For purposes of sections 202 and 203, an affirmative determination of the Commission under subsection (a) shall be treated as an affirmative determination under section 201(b), except that—

[(1) the President may take action under sections 202 and 203 only with respect to imports from the country or countries involved of the article with respect to which the affirmative determination was made, and

[(2) if such action consists of, or includes, an orderly marketing agreement, such agreement shall be entered into within 60 days after the import relief determination date.]

(b) With respect to any affirmative determination of the Commission under subsection (a)—

(1) such determination shall be treated as an affirmative determination made under section 201(b) of this Act (as in effect on the day before the date of the enactment of the Omnibus Trade and Competitiveness Act of 1988); and

(2) sections 202 and 203 of this Act (as in effect on the day before the date of the enactment of such Act of 1988), rather than the provisions of chapter 1 of title II of this Act as amended by section 1401 of such Act of 1988, shall apply with respect

to the taking of subsequent action, if any, by the President in response to such affirmative determination;

except that—

(A) the President may take action under such sections 202 and 203 only with respect to imports from the country or countries involved of the article with respect to which the affirmative determination was made; and

(B) if such action consists of, or includes, an orderly marketing agreement, such agreement shall be entered into within 60 days after the import relief determination date.

(c) If, at any time, the President finds that there are reasonable grounds to believe, with respect to imports of an article which is the product of a Communist country, that market disruption exists with respect to an article produced by a domestic industry, he shall request the Commission to initiate an investigation under subsection (a). If the President further finds that emergency action is necessary, he may take action under sections 202 and 203 *referred to in subsection (b)* as if an affirmative determination of the Commission had been made under subsection (a). Any action taken by the President under the preceding sentence shall cease to apply (1) if a negative determination is made by the Commission under subsection (a) with respect to imports of such article, on the day on which the Commission's report of such determination is submitted to the President, or (2) if an affirmative determination is made by the Commission under subsection (2) with respect to imports of such article, on the day on which the action taken by the President pursuant to such determination becomes effective.

(d)(1) A petition may be filed with the President by an entity decribed in section [201(a)(1)] *202(a)* requesting the President to initiate consultations provided for by the safeguard arrangements of any agreement entered into under section 405 with respect to imports of an article which is the product of the country which is the other party to such agreement.

* * * * * * *

(e) For purposes of this section—

* * * * * * *

(2)*(A)* Market disruption exists within a domestic industry whenever imports of an article, like or directly competitive with an article produced by such domestic industry, are increasing rapidly, either absolutely, or relatively, so as to be a significant cause of material injury, or threat thereof, to such domestic industry.

(B) For purposes of subparagraph (A):

(i) Imports of an article shall be considered to be increasing rapidly if there has been a significant increase in such imports (either actual or relative to domestic production) during a recent period of time.

(ii) The term "significant cause" refers to a cause which contributes significantly to the material injury of the domestic industry, but need not be equal to or greater than any other cause.

(C) The Commission, in determining whether market disruption exists, shall consider, among other factors—

(i) the volume of imports of the merchandise which is the subject of the investigation;

(ii) the effect of imports of the merchandise on prices in the United States for like or directly competitive articles;

(iii) the impact of imports of such merchandise on domestic producers of like or directly competitive articles; and

(iv) evidence of disruptive pricing practices, or other efforts to unfairly manage trade patterns.

SEC. 407. PROCEDURE FOR CONGRESSIONAL APPROVAL OR DISAPPROVAL OF EXTENSION OF NONDISCRIMINATORY TREATMENT AND PRESIDENTIAL REPORTS.

(a) * * *

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(c)(1) * * *

* * * * * * *

(3) In the case of a document referred to in subsection (b) which contains a report submitted by the President under section 402(b) or 409(b) with respect to a nonmarket economy country, if, before the close of the 90-day period beginning on the day on which such document is delivered to the House of Representatives and to the Senate, either the House of Representatives or the Senate adopts, by an affirmative vote of a majority of those present and voting in that House, a resolution of disapproval (under the procedures set forth in section 152) of the report submitted by the President with respect to such country, then, beginning with the day after the date of the adoption of such resolution of disapproval, (A) nondiscriminatory treatment shall not be in force with respect to the products of such country, and the products of such country shall be dutiable at the rates set forth in rate column numbered 2 of the [Tariff Schedules of the United States] *Harmonized Tariff Schedule of the United States,* (B) such country may not participate in any program of the Government of the United States which extends credit or credit guarantees or investment guarantees, and (C) no commercial agreement may thereafter be concluded with such country under this title.

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TITLE V—GENERALIZED SYSTEM OF PREFERENCES

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SEC. 503. ELIGIBLE ARTICLES.

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(c)(1) The President may not designate any article as an eligible article under subsection (a) if such article is within one of the following categories of import-sensitive articles—

* * * * * * *

[(B) watches,]

(B) watches, except those watches entered after June 30, 1989, that the President specifically determines, after public notice and comment, will not cause material injury to watch or watch

band, strap, or bracelet manufacturing and assembly operations in the United States or the United States insular possessions,

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TITLE VI—GENERAL PROVISIONS

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SEC. 601. DEFINITIONS.

For purposes of this Act—

(1) * * *

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(7) The term "existing" means (A) when used, without the specification of any date, with respect to any matter relating to entering into or carrying out a trade agreement or other action authorized by this Act, existing on the day on which such trade agreement is entered into or such other action is taken; and (B) when used with respect to a rate of duty, the nonpreferential rate of duty (however established, and even though temporarily suspended by Act of Congress or otherwise) set forth in rate column numbered 1 of [schedules 1 through 7 of the Tariff Schedules of the United States] *chapters 1 through 97 of the Harmonized Tariff Schedule of the United States* on the date specified or (if no date is specified) on the day referred to in clause (A).

* * * * * * *

SEC. 604. CONSEQUENTIAL CHANGES IN THE TARIFF SCHEDULES.

The President shall from time to time, as appropriate, embody in the [Tariff Schedules of the United States] *Harmonized Tariff Schedule of the United States* the substance of the relevant provisions of this Act, and of other Acts affecting import treatment, and actions thereunder, [including modification] *including removal modification,* continuance, or imposition of any rate of duty or other import restriction.

* * * * * * *

TRADE AGREEMENTS ACT OF 1979, AS AMENDED

* * * * * * *

TITLE VII—CERTAIN AGRICULTURAL MEASURES

SEC. 701. LIMITATION ON CHEESE IMPORTS.

(a) * * *

* * * * * * *

(c) Definitions.—For purposes of this title—

[(1) Quota cheese.—The term "quota cheese" means the articles provided for in the following items of the Tariff Schedules of the United States:

[(A) 117.00 (except Stilton produced in the United Kingdom);

[(B) 117.05 (except Stilton produced in the United Kingdom);

[(C) 117.15;

[(D) 117.20;

[(E) 117.25;

[(F) 117.40 (except Goya in original loaves);

[(G) 117.55;

[(H) 117.60 (except Gammelost and Nokkelost);

[(I) 117.75 (except goat's milk cheeses and soft-ripened cow's milk cheeses);

[(J) 117.81; and

[(K) 117.85 (except goat's milk cheeses and soft-ripened cow's milk cheeses).]

(1) Quota cheese.—The term "quota cheese" means the articles provided for in the following subheadings of the Harmonized Tariff Schedule of the United States:

(A) 0406.10.00 (except whey cheese, curd, and cheese, cheese substitutes for cheese mixtures containing: Roquefort, Stilton produced in the United Kingdom, Bryndza, Gjetost, Goya in original loaves, Gammelost and Nokkelost, cheese made from sheep's and goat's milk and soft ripened cow's milk cheeses);

(B) 0406.20.20 (except Stilton produced in the United Kingdom);

(C) 0406.20.30;

(D) 0406.20.35;

(E) 0406.20.40;

(F) 0406.20.50;

(G) 0406.20.60 (except cheeses containing or processed from: Stilton produced in the United Kingdom, Roquefort, Bryndza, Gjetost, Gammelost and Nokkelost, cheese made

from sheep's and goat's milk and soft ripened cow's milk cheeses);

(H) 0406.30.10 (except Stilton produced in the United Kingdom);

(I) 0406.30.20;

(J) 0406.30.30;

(K) 0406.30.40;

(L) 0406.30.50;

(M) 0406.30.60 (except cheeses containing or processed from: Stilton produced in the United Kingdom, Roquefort, Bryndza, Gjetost, Gammelost and Nokkelost, cheese made from sheep's and goat's milk and soft ripened cow's milk cheeses);

(N) 0406.40.60 (except Stilton produced in the United Kingdom);

(O) 0406.40.80 (except Stilton produced in the United Kingdom);

(P) 0406.90.10;

(Q) 0406.90.15;

(R) 0406.90.30 (except Goya in original loaves);

(S) 0406.90.35;

(T) 0406.90.40;

(U) 0406.90.45 (except Gammelost and Nokkelost);

(V) 0406.90.65;

(W) 0406.90.70; and

(X) 0406.90.80 (except cheeses containing or processed from: Stilton produced in the United Kingdom, Roquefort, Bryndza, Gjetost, Gammelost and Nokkelost, cheese made from sheep's and goat's milk and soft ripened cow's milk cheeses).

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SEC. 703. LIMITATION ON IMPORTS OF CHOCOLATE CRUMB.

The President shall by proclamation—

(1) increase the amount of the articles of chocolate provided for in [item 950.15 of the Tariff Schedules of the United States] *subheading 9904.10.63 of the Harmonized Tariff Schedule of the United States* which may enter the customs territory of the United States in any calendar year after 1979 to include—

(A) 2,000 metric tons from Australia, and

(B) one kilogram from New Zealand, and

(2) increase the amount of the articles of chocolate and the articles containing chocolate provided for in [item 950.16 of the Tariff Schedules of the United States] *subheading 9904.10.66 of the Harmonized Tariff Schedule of the United States* which may enter the customs territory of the United States in any calendar year after 1979 to include one kilogram from New Zealand.

Such proclamation shall be considered a proclamation which is issued by the President pursuant to section 22 of the Agricultural

Adjustment Act (7 U.S.C. 624) and which meets the requirements of such section.

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TITLE VIII—TREATMENT OF DISTILLED SPIRITS

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Subtitle B—Tariff Treatment

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SEC. 855. AUTHORITY TO PROCLAIM EXISTING RATES FOR CERTAIN ITEMS.

(a) General Rule.—In the case of any [item set forth in subpart D of part 12 of schedule 1 of the Tariff Schedules of the United States] *article provided for in subheading 2207.10.30 and heading 2208 of the Harmonized Tariff Schedule of the United States*, as amended by section 852 of this Act, whenever the President determines that adequate reciprocal concessions have been received therefor under a trade agreement entered into under the Trade Act of 1974, he may (notwithstanding section 109 of such Act) proclaim that the rate of duty applicable to such item shall be the rate of duty appearing in rate column numbered 1 on January 1, 1979, for the comparable item, determined on a proof gallon basis. For purposes of sections 101 and 601(7) of the Trade Act of 1974, the rates of duty proclaimed under the preceding sentence shall be deemed to be the rates of duty existing on January 1, 1975.

(b) Termination and Withdrawal Authority.—For purposes of section 125 of the Trade Act of 1974, any rate of duty proclaimed under subsection (a) shall be deemed to be a trade agreement obligation entered into under the Trade Act of 1974 which is of benefit to a foreign country or instrumentality. In the case of any item affected by any such proclamation, the last sentence of subsection (c) of such section 125 shall be applied as if it authorized (in addition to any increase authorized therein) an increase up to the rate of duty for such [item set forth in rate column numbered 1 of subpart D of part 12 of section 1 of the Tariff Schedules of the United States] *article as set forth in rate of duty column numbered 1 of subheading 2207.10.30 and heading 2208 of the Harmonized Tariff Schedule of the United States*, as amended by section 852 of this Act.

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TITLE XI—MISCELLANEOUS PROVISIONS

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SEC. 1102. AUCTION OF IMPORT LICENSES.

(a) * * *

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(b) Definition of Import License.—For purposes of this section, the term "import license" means any documentation used to administer a quantitative restriction imposed or modified after the date of enactment of this Act under—

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(3) authority under the [headnotes of the Tariff Schedules of the United States] *notes of the Harmonized Tariff Schedule of the United States*, but not including any quantitative restriction imposed under section 22 of the Agricultural Adjustment Act of 1934 (7 U.S.C. 624).

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TRADE AND TARIFF ACT OF 1984, AS AMENDED

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TITLE II—CUSTOMS AND MISCELLANEOUS AMENDMENTS

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Subtitle C—Miscellaneous Provisions

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SEC. 231. FOREIGN TRADE ZONE PROVISIONS.

(a)(1) The Congress finds that a delicate balance of the interests of the bicycle industry and the bicycle component parts industry has been reached through repeated revision of the **[**Tariff Schedules of the United States**]** *Harmonized Tariff Schedule of the United States* so as to allow duty free import of those categories of bicycle component parts which are not manufactured domestically. The Congress further finds that this balance would be destroyed by exempting otherwise dutiable bicycle component parts from the customs laws of the United States through granting foreign trade zone status to bicycle manufacturing and assembly plants in the United States and that the preservation of such balance is in the public interest and in the interest of the domestic bicycle industry.

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SEC. 236. USER FEE FOR CUSTOMS SERVICES AT CERTAIN SMALL AIRPORTS.

(a) The Secretary of the Treasury shall make customs services available and charge a fee for the use of such customs services at—

(1) the airport located at Lebanon, New Hampshire, **[**and**]**

(2) the airport located at Pontiac/Oakland, Michigan, and

[(2)**]** *(3)* any other airport designated by the Secretary of the Treasury under subsection (c).

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(c) The Secretary of the Treasury may designate **[**20**]** airports under this subsection. An airport may be designated under this subsection only if—

(1) the Secretary of the Treasury has made a determination that the volume or value of business cleared through such airport is insufficient to justify the availability of customs services at such airport, and

(2) the governor of the State in which such airport is located approves such designation.

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SEC. 239. RELIQUIDATION OF CERTAIN MASS SPECTROMETER SYSTEMS.

Notwithstanding sections 514 and 520 of the Tariff Act of 1930 and any other provision of law, the Secretary of the Treasury is authorized to reliquidate within six months of the date of enactment of this Act the entry of 2 mass spectrometer systems—

(1) which were imported into the United States for the use of Montana State University, Bozeman, Montana, and

(2) with respect to which applications were filed with the International Trade Administration of the Department of Commerce for duty-free entry of scientific instruments that were assigned the docket numbers 82-00323 and 83-108 (described in 47 Federal Register 41409 and 48 Federal Register 13214, respectively),

if the Secretary of Commerce finds that these systems are eligible to enter free of duty pursuant to [headnote 6 of part 4 of schedule 8 of the Tariff Schedules of the United States] *U.S. note 6 to subchapter X of chapter 98 of the Harmonized Tariff Schedule of the United States.*

SEC. 240. MAX PLANCK INSTITUTE FOR RADIOASTRONOMY.

(a)(1) The Secretary of the Treasury is authorized and directed to admit free of duty any article provided by the Max Planck Institute for Radioastronomy of the Federal Republic of Germany to the joint astronomical project being undertaken by the Steward Observatory of the University of Arizona and the Max Planck Institute for the construction, installation, and operation of a sub-mm telescope is the State of Arizona if—

(A) such article is an instrument or apparatus (within the meaning of [headnote 6(a) of part 4 of schedule 8 of the Tariff Schedules of the United States] *U.S. note 6(a) to subchapter X of chapter 98 of the Harmonized Tariff Schedule of the United States* (19 U.S.C. 1202)).

* * * * * * *

(e) If any article admitted free of duty under subsection (a) is used for any purpose other than the joint project described in subsection (a)(1) within five years after being entered, duty on the article shall be assessed in accordance with the procedures established in [headnote 1 of part 4 of schedule 8] *U.S. note 1 to subchapter X of chapter 98 of the Harmonized Tariff Schedule of the United States* (19 U.S.C. 1202).

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TITLE IV—TRADE WITH ISRAEL

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SEC. 403. APPLICATION OF CERTAIN OTHER TRADE LAW PROVISIONS.

(a) * * *

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(b) ITC REPORTS.—In any report by the United States International Trade Commission (hereinafter referred to in this title as the "Commission") to the President under [section 201(d)(1)] *section 202(f)* of the Trade Act of 1974 regarding any article for which a reduction or elimination of any duty is provided under a trade agreement entered into with Israel under section 102(b)(1) of the Trade Act of 1974, the Commission shall state whether and to what extent its findings and recommendations apply to such an article when imported from Israel.

(c) For purposes of [subsections (a) and (c) of] section 203 of the Trade act of 1974, the suspension of the reduction or elimination of a duty under subsection (a) shall be treated as an increase in duty.

(d) No proclamation which provides solely for a suspension referred to in subsection (a) with respect to any article shall be made under [subsections (a) and (c) of] section 203 of the Trade Act of 1974 unless the Commission, in addition to making an affirmative determination with respect to such article under section [201(b)] *202(b)* of the Trade Act of 1974, determines in the course of its investigation under that section that the serious injury (or threat thereof) substantially caused by imports to the domestic industry producing a like or directly competitive article results from the reduction or elimination of any duty provided under any trade agreement provision entered into with Israel under section 102(b)(1) of the Trade Act of 1974.

(e)(1) Any proclamation issued under section 203 of the Trade Act of 1974 that is in effect when an agreement with Israel is entered into under section 102(b)(1) of the Trade Act of 1974 shall remain in effect until modified or terminated.

(2) If any article is subject to import relief at the time an agreement is entered into with Israel under section 102(b)(1) of the Trade Act of 1974, the President may reduce or terminate the application of such import relief to the importation of such article before the otherwise scheduled date on which reduction or termination would occur pursuant to the criteria and procedures of [subsections (h) and (i) of section 203] *sections 203 and 204* of the Trade Act of 1974.

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SEC. 404. FAST TRACK PROCEDURES FOR PERISHABLE ARTICLES.

(a) If a petition is filed with the Commission under the provisions of [section 201] *section 202(a)* of the Trade Act of 1974 regarding a perishable product which is subject to any reduction or elimination of a duty imposed by the United States under a trade agreement entered into with Israel under section 102(b)(1) of the Trade Act of 1974 and alleges injury from imports of that product, then the petition may also be filed with the Secretary of Agriculture with a request that emergency relief be granted under subsection (c) with respect to such article.

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(d) The emergency action provided under subsection (c) shall cease to apply—

(1) upon the [proclamation of import relief under section 202(a)(1)] *taking of action under section 203* of the Trade Act of 1974;

[(2) on the day the president makes a determination under section 203(b)(2) of such Act not to impose import relief;]

(2) on the day a determination of the President under section 203 of such Act not to take action becomes final;

*   *   *   *   *   *   *

(e) For purposes of this section, the term "perishable product" means any—

[(1) live plant provided for in subpart A of part 6 of schedule 1 of the Tariff Schedules of the United States (19 U.S.C. 1202, hereinafter referred to as the "TSUS");

[(2) vegetable provided for in schedule 1, part 8, of the TSUS;

[(3) fresh mushroom provided for in item 144.10 of the TSUS;

[(4) edible nut or fruit provided for in schedule 1, part 9, of the TSUS;

[(5) fresh cut flower provided for in items 192.17, 192.18, and 192.21 of the TSUS; and

[(6) concentrated citrus fruit provided for in items 165.25 and 165.35 of the TSUS.]

(1) live plants and fresh cut flowers provided for in chapter 6 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 1202, hereinafter referred to as the "HTS");

(2) vegetables, edible nuts or fruit provided for in chapters 7 and 8, heading 1105, subheadings 1106.10.00 and 1106.30, heading 1202, subheadings 1214.90.00 and 1704.90.60, headings 2001 through 2008 (excluding subheadings 2001.90.20 and 2004.90.10) and subheading 2103.20.40 of the HTS;

(3) concentrated citrus fruit juice provided for in subheadings 2009.11.00, 2009.19.40, 2009.20.40, 2009.30.20, and 2009.30.60 of the HTS.

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TITLE VIII—ENFORCEMENT AUTHORITY FOR THE NATIONAL POLICY FOR THE STEEL INDUSTRY

*   *   *   *   *   *   *

SEC. 805. ENFORCEMENT AUTHORITY.

(a) * * *

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(d)(1) Any steel product that is manufactured in a country that is not party to a bilateral arrangement from steel which was melted and poured in a country that is party to a bilateral arrangement (hereafter in this subsection referred to as an "arrangement country") may be treated for purposes of the quantitative restrictions and related terms under that arrangement as if it were a product of the arrangement country.

(2) The President may implement such procedures as may be necessary or appropriate to carry out the purpose of paragraph (1).

(3) The United States Trade Representative may, in a manner consistent with the purpose of any so-called "third country equity provision" of an arrangement entered into under the President's Steel Policy, take such actions as he deems necessary with respect to steel imports of any other country or countries so as to ensure the effectiveness of any portion of such arrangement.

TARIFF SCHEDULES OF THE UNITED STATES

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SCHEDULE 1.—ANIMAL AND VEGETABLE PRODUCTS

* * * * * * *

Item	Articles	Rates of duty		
		1	Special	2
	PART 3.—FISH AND SHELLFISH			
	* * * * * * *			
	Subpart C.—Fish in Airtight Containers			
	* * * * * * *			
	Fish, prepared or preserved in any manner, in oil, in airtight containers:			
[112.40	Anchovies	6% ad val	Free (A,E,I)	30% ad val.]
	Anchovies:			
112.40	*If entered in any calendar year before 3,000 metric tons of anchovies have been entered under this item in such calendar year.*	*3% ad val*	*Free (A,E,I)*	*30% ad val.*
112.41	*Other*	*6% ad val*	*Free (A,E,I)*	*30% ad val.*
	* * * * * * *			
	PART 4.—DAIRY PRODUCTS; BIRDS' EGGS			
	* * * * * * *			
	Subpart C.—Cheese			
	* * * * * * *			
	Other cheeses, and substitutes for cheese:			
	Cheese made from sheep's milk:			
117.65	In original loaves and suitable for grating.	[9% ad val] *Free.*	Free (A,E,I)	35% ad val.
117.67	Pecorino, in original loaves. not suitable for grating.	[12% ad val.] *Free.*	Free (A,E,I)	35% ad val.
	* * * * * * *			
	PART 9.—EDIBLE NUTS AND FRUITS			
	* * * * * * *			
	Subpart B.—Edible Fruits			
	* * * * * * *			
	Oranges:			
[147.29	Mandarin, packed in airtight containers	0.2¢ per lb	Free (A,E,I)	1¢ per lb.]
	Mandarin, packed in airtight containers:			
147.28	*Satsuma, if entered in any calendar year before 40,000 metric tons of Satsuma oranges have been entered under this item in such calendar year.*	*Free*	*Free (A,E,I)*	*1¢ per lb.*
147.29	*Other*	*0.2¢ per lb*	*Free (A,E,I)*	*1¢ per lb.*
	Other:			
148.43	*In containers each holding not more than 0.3 gallon.*	*20¢ per gal.*	*Free (E)*	*20¢ per gal.*
[148.44	Other	20¢ per gal	Free (E)	20¢ per gal.]
	In containers each holding more than 0.3 gallon:			
148.44	*If entered in any calendar year before 4,400 metric tons of olives have been entered under this item in such calendar year.*	*10¢ per gal*	*Free (E)*	*20¢ per gal.*
148.45	*Other*	*20¢ per gal*	*Free (E)*	*20¢ per gal.*

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Item	Articles	Rates of duty		
		1	Special	2
	Other:			
148.47	*If entered in any calendar year before 730 metric tons of olives have been entered under this item in such calndar year.*	*15¢ per gal*	*Free (E)*	*30¢ per gal.*
[148.48	Other	30¢ per gal	Free (E)	30¢ per gal.]
148.48	*Other*	*30¢ per gal*	*Free (E)*	*30¢ per gal.*
148.50	Pitted [or stuffed]	30¢ per gal	Free (E)	30¢ per gal.
	Stuffed:			
	In containers each holding not more than 0.3 gallon:			
	Place packed:			
148.51	*If entered in any calendar year before 2,700 metric tons of olives have been entered under this item in such calendar year.*	*15¢ per gal*	*Free (E)*	*30¢ per gal.*
148.52	*Other*	*30¢ per gal*	*Free (E)*	*30¢ per gal.*
148.53	*Other*	*30¢ per gal*	*Free (E)*	*30¢ per gal.*
148.54	*In containers each holding more than 0.3 gallon*	*30¢ per gal*	*Free (E)*	*30¢ per gal.*
	Dried:			
[148.52] *148.55*	Not ripe	[5¢ per ib] *2.5¢ per lb.*	Free (A,R,I)	5¢ per lb.
[148.54] *148.56*	Ripe	2.5¢ per lb	Free (A,E,I)	5¢ per lb.
[148.56]	Otherwise prepared or preserved	5¢ per lb	Free (E)	5¢ per lb.]
	Otherwise prepard or preserved:			
148.57	*If entered in any calendar year before 550 metric tons of olives have been entered under this item in such calendar year.*	*2.5¢ per lb*	*Free (E)*	*5¢ per lb.*
148.58	*Other*	*5¢ per lb*	*Free (E)*	*5¢ per lb.*

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Item	Articles	1	Special	2
149.26	Dried, *salted, or not salted*	2¢ per lb	Free (E,I)	2¢ per lb.
[149.28	Otherwise prepared or preserved	17.5% ad val	Free (E) 5.6% ad val. (I).	35% ad val].
	Otherwise prepared or preserved:			
149.30	*Plums, soaked in brine and dried*	*2¢ per lb*	*Free (E) 5.6% ad val. (I).*	*2¢ per lb.*
149.31	*Other*	*17.5% ad val*	*Free (E) 5.6% ad val. (I).*	*35% ad val.*

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PART 11.—COFFEE, TEA, MATE, AND SPICES

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Subpart B.—Spices and Spice Seeds

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Item	Articles	1	Special	2
	Capers:			
161.06	In immediate containers holding more than 7.5 pounds.	[16% ad val.] *8% ad val.*	Free (A,E) *5.1% ad val. (I).*	20% ad val.
161.08	Other	[16% ad val.] *8% ad val.*	*Free (E) 5.1% ad val. (I).*	20% ad val.

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Item	Articles	1	Special	2
161.71	Paprika, ground or not ground	[2¢] *1.35¢* per lb.	Free (A.E.I)	5¢ per lb.

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PART 12.—BEVERAGES

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Subpart C.—Fermented Alcoholic Beverages

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Item	Articles	1	Special	2
167.15	Cider, fermented, whether still or sparkling	[3¢] *1.5¢* per gal.	Free (A,E,I)	5¢ per gal.

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SCHEDULE 1.—ANIMAL AND VEGETABLE PRODUCTS—Continued

Item	Articles	Rates of duty		
		1	Special	2
	PART 14—ANIMAL, AND VEGETABLE OILS, FATS, AND GREASES			
*	*	*	*	*
	Subpart B.—Vegetable Oils, Crude or Refined			
*	*	*	*	*
176.29	Other: Weighing with the immediate container under 40 pounds.	[3.8¢ per lb. on contents and container] *2.28¢ per lb. on contents and container.*	Free (A,E,I)......	8¢ per lb. on contents and container.
176.30	Other..	[2.6] *1.56¢* per lb.	Free (A,E,I)......	6.5¢ per lb.

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SCHEDULE 2.—WOOD AND PAPER: PRINTED MATTER

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Item	Articles	Rates of Duty		
		1	Special	2
*	*	*	*	*
	PART 5.—BOOKS, PAMPHLETS, AND OTHER PRINTED AND MANUSCRIPT MATERIAL			
*	*	*	*	*
	Printed catalogs relating chiefly to current offers for the sale of United States products:			
[270.45] *270.46*	Wholly or almost wholly of foreign authorship.	0.2% ad val	Free (A,E,I)......	15% ad val.
[270.50] *270.48*	Other..	0.4% ad val	Free (A,E,I)......	25% ad val.
*	*	*	*	*
270.90	*Catalogs of films, recordings, or other visual and auditory material of an educational, scientific, or cultural character.*	*Free*..................	....	*Free*
*	*	*	*	*
	[Architectural, engineering, industrial, or commercial drawings and plans, whether originals or reproductions printed on sensitized materials by any photographic process:			
[273.45	Produced over 20 years before importations....	Free	....	Free
[273.50	Produced not over 20 years before importation:			
	Suitable as designs for use in the manufacture of floor coverings, textiles, wall coverings or wall paper.	1.4% ad val	Free (A,E,I)......	20% ad val.
[273.55	Other..	0.5% ad val	Free (A,E,I)......	25% ad val.]
273.52	*Architectural, engineering, industrial, or commercial drawings and plans, whether originals or reproductions.*	*Free*..................	....	*Free*
*	*	*	*	*
	Photographs *(including developed photographic film; photographic slides; transparencies; holograms for laser projection; and microfilm, microfiches and similar articles except those provided for in item 737.52)*, engravings, etchings, lithographs, and wood cuts, and pictorial matter produced by relief or stencil printing process, all the foregoing, whether bound or not bound, and not specially provided for:			

SCHEDULE 2.—WOOD AND PAPER: PRINTED MATTER—Continued

Item	Articles	Rates of Duty		
		1	Special	2
274.50	Printed over 20 years at time of importation	Free		Free
	Printed not over 20 years at time of importation:			
274.55	*Loose illustrations, reproduction proofs or reproduction films used for the production of books.*	*Free*		*Free*
274.56	*Articles provided for in items 270.05, 270.10, 270.25, 270.55, 270.63, 270.70, and 273.60 in the form of microfilm, microfiches, and similar film media.*	*Free*		*Free*
	Lithographs on paper:			
274.60	Not over 0.020 inch in thickness	6¢ per lb.	Free (A,E,I)	30¢ per lb.
	Posters			
	Other			

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SCHEDULE 7.—SPECIFIED PRODUCTS: MISCELLANEOUS AND NONENUMERATED PRODUCTS

Item	Articles	Rates of Duty		
		1	Special	2

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PART 5.—ARMS AND AMMUNITION; FISHING TACKLE; WHEEL GOODS; SPORTING GOODS, GAMES AND TOYS

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Subpart D.—Games and Sporting Goods

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Item	Articles	1	Special	2
735.18	Skeet targets	Free		20% ad val.
[735.20	Puzzles; game, sport, gymnastic, athletic, or playground equipment; all the foregoing, and parts thereof, not specially provided for.			
	Puzzles and parts thereof			
	Nets for games or sports, not specially provided for.			
	Raquetball rackets			
	Squash rackets			
	Skateboards and parts thereof:			
	Skateboards			
	Parts:			
	Decks			
	Other			
	Backpacking tents of textile material			
	Other:			
	Playground, gymnasium, gymnastic and other exercise equipment:			
	Exercise cycles			
	Exercise rowing machines			
	Other			
	Other]			
	Puzzles; game, sport, gymnastic, athletic, or playground equipment; all the foregoing and parts thereof, not specially provided for:			
735.21	*Crossword puzzle books, whether or not in the form of microfilm, microfiches, or similar film media.*	*Free*		*Free*
735.24	*Other*	*4.64% ad val*		*40% ad val.*

Subpart E.—Models; Dolls, Toys, Tricks, Party Favors

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Item	Articles	1	Special	2
737.52	Toy books *(whether or not in the form of microfilm, microfiches, or similar film media)*, including coloring books and books the only reading matter in which consists of letters, numerals, or descriptive words.	Free		Free

SCHEDULE 8.—SPECIAL CLASSIFICATION PROVISION

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Item	Articles	Rates of Duty		
		1	Special	2
	* * * *	*	*	*
	PART 2.—PERSONAL EXEMPTIONS			
	* * * *	*	*	*
	Subpart D.—Other Personal Exemptions			
[825.00	Artificial limbs and limb braces imported solely for the personal use of a special person and not for sale otherwise than for the use of such person.	Free		Free
	Articles for the blind:			
[826.10	Books, music, and pamphlets, in raised print, used exclusively by or for them.	Free		Free
[826.20	Braille tablets, cubarithms, and special apparatus, machines, presses, and types for their use or benefit exclusively.	Free		Free]
	* * * *	*	*	*
	PART 3.—GOVERNMENTAL IMPORTATIONS			
	Subpart A.—United States Government			
	* * * *	*	*	*
	Articles for the use of any agency of the United States Government:			
830.00	Engravings, etchings, photographic prints, whether bound or unbound, recorded video tapes, and exposed photographic films (including motion-picture films) whether or not developed; *official government publications in the form of microfilm, microfiches, or similar film media.*	Free		Free
	* * * *	*	*	*
	Subpart B.—Foreign Governments and International Organizations			
	* * * *	*	*	*
840.00	Public documents, *whether or not in the form of microfilm, microfiches, or similar film media* (including exposed and developed motion picture and other films, recorded video tapes, and sound recordings) issued essentially at the instance and expense of a foreign government, of a political subdivision of a foreign Country, or of an international organization the membership of which includes two or more foreign countries.	Free		Free
	* * * *	*	*	*
	PART 4.—IMPORTATION OF RELIGIOUS EDUCATIONAL, SCIENTIFIC, AND OTHER INSTITUTIONS			
	* * * *	*	*	*
851.67	*Tools specially designed to be used for the maintenance, checking, gauging or repair of scientific instruments or apparatus admitted under item 851.60.*	*Free*		*Free*
	* * * *	*	*	*
	PART 7.—OTHER SPECIAL CLASSIFICATION PROVISIONS			

Part 7 headnotes:

SCHEDULE 8.—SPECIAL CLASSIFICATION PROVISION—Continued

Item	Articles	Rates of Duty 1	 Special	 2

[1. No article shall be exempted from duty under item 870.30 unless a Federal agency or agencies designated by the President determines that such article is visual or auditory material of an educational, scientific, or cultural character within the meaning of the Agreement for Facilitating the International Circulation of Visual and Auditory Materials of an Educational, Scientific, and Cultural Character. Whenever the President determines that there is or may be profitmaking exhibition or use of articles described in item 870.30 which interferes significantly (or threatens to interfere significantly) with domestic production of similar articles, he may prescribe regulations imposing restrictions on the entry of such foreign articles to insure that they will be exhibited or used only for nonprofitmaking purposes.]

1. (a) No article shall be exempted from duty under item 870.30 unless either:

(i) a Federal agency or agencies designated by the President determines that such article is visual or auditory material of an educational, scientific, or cultural character within the meaning of the Agreement for Facilitating the International Circulation of Visual and Auditory Materials of an Educational, Scientific, or Cultural Character (17 UST (pt. 2) 1578; Beirut Agreement), or

(ii) such article—

(A) is imported by, or certified by the importer to be for the use of, any public or private institution or association approved as educational, scientific, or cultural by a Federal agency or agencies designated by the President for the purpose of duty-free admission pursuant to the Nairobi Protocol to the Florence Agreement, and

(B) is certified by the importer to be visual or auditory material of an educational, scientific, or cultural character or to have been produced by the United Nations or any of its specialized agencies.

For purposes of subparagraph (i), whenever the President determines that there is or may be profitmaking exhibition or use of articles described in item 870.30 which interferes significantly (or threatens to interfere significantly) with domestic production of similar articles, he may prescribe regulations imposing restrictions on the entry under that item of such foreign articles to insure that they will be exhibited or used only for nonprofitmaking purposes.

(b) For purposes of items 870.32 through 870.35, inclusive, no article shall be exempted from duty unless it meets the criteria set forth in subparagraphs (a)(ii) (A) and (B) of this headnote.

* * * * * * *

4. (a) For purposes of items 870.65, 870.66, and 870.67, the term "blind or other physically or mentally handicapped person" includes any person suffering from a permanent or chronic physical or mental impairment which substantially limits one or more major life activities, such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(b) Items 870.65, 870.66, and 870.67 do not cover—

(i) articles for acute or transient disability,

(ii) spectacles, dentures, and cosmetic articles for individuals not substantially disabled;

(iii) therapeutic and diagnostic articles; or

SCHEDULE 8.—SPECIAL CLASSIFICATION PROVISION—Continued

Item	Articles	Rates of Duty		
		1	Special	2
	(iv) medicine or drugs.			
*	*	*	*	*
870.30	Developed photographic film, including motion picture film on which pictures or sound and pictures have been recorded; photographic slides; transparencies; sound recordings; recorded video-tape; models *(except toy models)*; charts; maps; globes; and posters; all of the foregoing which are determined to be visual or auditory materials in accordance with headnote 1*(a)* of this part.	*Free*		*Free*
	Articles determined to be visual or auditory materials in accordance with headnote 1 of this part:			
870.32	*Holograms for Laser projection; microfilm, microfiches, and similar articles.*	*Free*		*Free*
870.33	*Motion-picture films in any form on which pictures or sound and pictures, have been recorded, whether or not developed.*	*Free*		*Free*
870.34	*Sound recording, combination sound and visual recordings, and magnetic recordings; video discs, video tapes, and similar articles.*	*Free*		*Free*
870.35	*Pattens and wall charts; globs; mock-ups of visualizations of abstract concepts such as molecular structures or mathematical formulae, materials for programmed instruction; and kits continuing printed materials and audio materials and visual materials or any combination of two or more of the foregoing.*	*Free*		*Free*
*	*	*	*	*
	Articles specially designed or adopted for the use or benefit of the blind or other physically or mentally handicapped persons:			
	Articles for the blind:			
870.65	*Books, music and pamphlets, in raised print, used exclusively by or for them.*	*Free*		*Free*
870.66	*Braille tablets cubarithms, and special apparatus, machines, presses, and types for their use or benefit exclusively.*	*Free*		*Free*
870.67	*Other*	*Free*		*Free*
*	*	*	*	*

APPENDIX TO THE TARIFF SCHEDULES

Item	Articles	Rates of Duty		Effective Period
		1	2	
	PART 1.—TEMPORARY LEGISLATION			
*	*	*	*	*
	Subpart B—Temporary Provisions Amending The Tariff Schedules			
*	*	*	*	*
909.35	*Glass inners designed for vacuum flasks or for other vacuum vessels (provided for in items 545.31, 545.34, 545.35, and 545.37, part 3C, schedule 5).*	[*3.6% ad val. (I/*]. *Free (A,E)*	*55% ad val*	*On or before 12/31/90*
*	*	*	*	*

ACT OF JULY 2, 1940

[To limit the importation of products made, produced, processed, or mined under process covered by unexpired valid United States patents, and for other purposes

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the importation hereafter for use, sale, or exchange of a product made, produced, processed, or mined under or by means of a process covered by the claims of any unexpired valid United States letters patent, whether issued heretofore or hereafter, shall have the same status for the purposes of section 337 of the Tariff Act of 1930 as the importation of any product or article covered by the claims of any unexpired valid United States letters patent.]

AUTOMOTIVE PRODUCTS TRADE ACT OF 1965

* * * * * * *

SEC. 201. (a) The President is authorized to proclaim the modifications of the [Tariff Schedules of the United States] *Harmonized Tariff Schedule of the United States* provided for in title IV of this Act.

(b) At any time after the issuance of the proclamation authorized by subsection (a), the President is authorized to proclaim further modifications of the [Tariff Schedules of the United States] *Harmonized Tariff Schedule of the United States* to provide for the duty-free treatment of any Canadian article which is original motor-vehicle equipment (as defined by such Schedules as modified pursuant to subsection (a)) if he determines that the importation of such article, is actually or potentially of commercial significance and that such duty-free treatment is required to carry out the Agreement.

* * * * * * *

CARIBBEAN BASIN ECONOMIC RECOVERY ACT

* * * * * * *

SEC. 212. BENEFICIARY COUNTRY.

(a) * * *

(1) For purposes of this chapter—

* * * * * * *

(C) The term ["TSUS" means Tariff Schedules of the United States] *"HTS" means Harmonized Tariff Schedule of the United States* (19 U.S.C. 1202).

* * * * * * *

[(e) The President shall, after complying with the requirements of subsection (a)(2), withdraw or suspend the designation of any country as a beneficiary country if, after such designation, he determines that as the result of changed circumstances such country would be barred from designation as a beneficiary country under subsection (b).]

(e)(1) The President may, after the requirements of subsection (a)(2) and paragraph (2) have been met—

(A) withdraw or suspend the designation of any country as a beneficiary country, or

(B) withdraw, suspend, or limit the application of duty-free treatment under this subtitle to any article of any country,

if, after such designation, the President determines that as a result of changed circumstances such country would be barred from designation as a beneficiary country under subsection (b).

(2)(A) The President shall publish in the Federal Register notice of the action the President proposes to take under paragraph (1) at least 30 days prior to taking such action.

(B) The United States Trade Representative shall, within the 30-day period beginning on the date on which the President publishes under subparagraph (A) notice of proposed action—

(i) accept written comments from the public regarding such proposed action,

(ii) hold a public hearing on such proposed action, and

(iii) publish in the Federal Register—

(I) notice of the time and place of such hearing prior to the hearing, and

(II) the time and place at which such written comments will be accepted.

* * * * * * *

SEC. 213. ELIGIBLE ARTICLES.

(a)(1) * * *

* * * * * * *

(b) ARTICLES TO WHICH DUTY-FREE TREATMENT DOES NOT APPLY.—The duty-free treatment provided under this chapter shall not apply to—

* * * * * * *

(4) petroleum, or any product derived from petroleum, provided for in [part 10 of schedule 4 of the TSUS] *headings 2709 and 2710 of the Harmonized Tariff Schedule of the United States*; or

(5) watches and watch parts (including cases, bracelets and straps), of whatever type including, but not limited to, mechanical, quartz digital or quartz analog, if such watches or watch parts contain any material which is the product of any country with respect to which [TSUS] *HTS* column 2 rates of duty apply.

(c) Sugar and Beef Products; Stable Food Production Plan; Suspension of Duty-Free Treatment; Monitoring.—(1) As used in this subsection—

(A) The term "sugar and beef products" means—

(i) sugars, sirups, and molasses provided for in [items 155.20 and 155.30 of the TSUS] *subheadings 1701.11.00, 1701.12.00, 1701.91.20, 1701.99.00, 1702.90.30, 1806.10.40, and 2106.90.10 of the Harmonized Tariff Schedule of the United States*, and

(ii) articles of beef or veal, however provided for in [subpart B of part 2 of schedule 1 of the TSUS] *chapters 2 and 16 of the Harmonized Tariff Schedule of the United States.*

* * * * * * *

(d) Price-Support Program Protection.—For such period as there is in effect a proclamation issued by the President pursuant to the authority vested in him by section 624 of Title 7 to protect a price-support program for sugar beets and sugar cane, the importation and duty-free treatment of sugars, sirups, and molasses classified under [items 155.20 and 155.30 of the TSUS] *subheadings 1701.11.00, 1701.12.00, 1701.91.20, 1701.99.00, 1702.90.30, 1806.10.40, and 2106.90.10 of the Harmonized Tariff Schedule of the United States* shall be governed in the following manner:

* * * * * * *

(e) Proclamations Suspending Duty-Free Treatment.—(1) The President may by proclamation suspend the duty-free treatment provided by this chapter with respect to any eligible article and may proclaim a duty rate for such article if such action is [proclaimed pursuant to section 203] *provided under chapter 1 of title II* of the Trade Act of 1974 [19 U.S.C.A. § 2253] or section 232 of the Trade Expansion Act of 1962 [19 U.S.C.A. § 1862].

(2) In any report by the International Trade Commission to the President under section [201(d)(1)] *202(f)* of the Trade Act of 1974 [19 U.S.C.A. § 2251(d)(1) of this title] regarding any article for which duty-free treatment has been proclaimed by the President pursuant to this chapter, the Commission shall state whether and to what extent its findings and recommendations apply to such article when imported from beneficiary countries.

(3) For purposes of subsections [(a) and (c) of section 203] *section 203* of the Trade Act of 1974, [19 U.S.C.A. § 2253 (a) and (c)], the suspension of the duty-free treatment provided by this title shall be treated as an increase in duty.

(4) No proclamation which provides solely for a suspension referred to in paragraph (3) of this subsection with respect to any article shall be [made under subsections (a) and (c) of section 203] *taken under section 203* of the Trade Act of 1974 [19 U.S.C.A. § 2253] unless the United States International Trade Commission, in addition to making an affirmative determination with respect to such article under section [201(b)] *202(b)* of the Trade Act of 1974 [19 U.S.C.A. § 2251(b)] determines in the course of its investigation under [section 201(b) of such Act] *such section* [19 U.S.C.A. § 2251(b)] that the serious injury (or threat thereof) substantially caused by imports to the domestic industry producing a like or di-

rectly competitive article results from the duty-free treatment provided by this chapter.

(5)(A) Any [proclamation issued pursuant to section 203] *action taken under section 203* of the Trade Act of 1974 [19 U.S.C.A. § 2253] that is in effect when duty-free treatment pursuant to section 2701 of this title is proclaimed shall remain in effect until modified or terminated.

(B) If any article is subject [to import relief] *to any such action* at the time duty-free treatment is proclaimed pursuant to section 2701 of this title the President may reduce or terminate the application of [such import relief] *such action* to the importation of such article from beneficiary countries prior to the otherwise scheduled date on which such reduction or termination would occur pursuant to the criteria and procedures of [subsections (h) and (i) of section 203] *section 203* of the Trade Act of 1974 [19 U.S.C.A. § 2253].

(f) Petitions to International Trade Commission.—

(1) * * *

* * * * * * *

(4) The emergency action provided by paragraph (3) of this subsection shall cease to apply—

(A) upon the [proclamation of import relief pursuant to section 202(a)(1)] *taking action under section 203* of the Trade Act of 1974 [19 U.S.C.A. § 2252(a)(1)],

[(B) on the day the President makes a determination pursuant to section 203(b)(2) of such Act [19 U.S.C.A. § 2253(b)(2)] not to impose import relief,]

(B) on the day a determination by the President not to take action under section 203 of such Act not to take action becomes final,

* * * * * * *

(5) For purposes of this subsection, the term "perishable product" means—

[(A) live plants provided for in subpart A of part 6 of schedule 1 of the TSUS;]

(A) live plants and fresh cut flowers provided for in chapter 6 of the HTS;

(B) fresh or chilled vegetables provided for in [items 135.10 through 138.46 of the TSUS] *headings 0701 through 0709 (except subheading 0709.52.00) and heading 0714 of the HTS*;

[(C) fresh mushrooms provided for in item 144.10 of the TSUS;]

[(D)] *(C)* fresh fruit provided for in [items 146.10, 146.20, 146.30, 146.50 through 146.62, 146.90, 146.91, 147.03 through 147.33, 147.50 through 149.21 and 149.50 of the TSUS] *subheadings 0804.20 through 0810.90 (except citrons of subheading 0805.90.00, tamarinds and kiwi fruit of subheading 0810.90.20, and cashew apples, mameyes colorados, sapodillas, soursops and sweetsops of subheading 0810.90.40) of the HTS; and*

[(E) fresh cut flowers provided for in items 192.17, 192.18, and 192.21 of the TSUS; and]

[(F)] *(E)* concentrated citrus fruit juice provided for in [items 165.25 and 165.35 of the TSUS] *subheadings 2009.11.00, 2009.19.40, 2009.20.40, 2009.30.20, and 2009.30.60 of the HTS.*

* * * * * * *

EDUCATIONAL, SCIENTIFIC, AND CULTURAL MATERIALS IMPORTATION ACT OF 1982

[SEC. 1. SHORT TITLE, ETC.

[(a) SHORT TITLE.—This subtitle may be cited as the "Educational, Scientific, and Cultural Materials Importation Act of 1982".

[(b) PURPOSE.—The purpose of this subtitle is to enable the United States to give effect to the Nairobi Protocol to the Florence Agreement on the Importation of Educational, Scientific, and Cultural Materials (opened for signature of March 1, 1977) with a view to contributing to the cause of peace through freer exchange of ideas and knowledge across national boundaries.]

[SEC. 2. BOOKS, PUBLICATIONS, AND DOCUMENTS.

[Part 5 of schedule 2 is amended—

[(1) by inserting, in numerical sequence, the following new item:

["	270.90	Catalogs of films, recordings or other visual and auditory material of an educational, scientific, or cultural character	Free		Free	";

[(2) by striking out items 273.45 through 273.55, and the superior heading thereto, and inserting in lieu thereof the following:

["	273.52	Achitectural engineering, industrial, or commercial drawings and plans, whether originals or reproductions	Free		Free	";

and

[(3) by inserting immediately below the phrase "Printed not over 20 years at time of importation:" and above (and at the same hierarchical level as) "Lithographs on paper:" the following new item:

["	274.55	Loose illustrations, reproduction proofs or reproduction films used for the production of books	Free		Free	";

[SEC. 3. VISUAL AND AUDITORY MATERIALS.

[(a) PHOTOGRAPHIC FILM.—Part 5 of schedule 2 is amended—

[(1) by inserting the phrase "(including developed photographic film; photographic slides; transparencies; holograms for laser projection; and microfilm, microfiche, and similar articles)" immediately after "Photographs" in the superior heading to items 274.50 through 274.70, and

[(2) by adding, in numerical sequence, the following new item:

[" 274.67	Developed photographic film; photographic slides; transparencies; holograms for laser projection; and microfilm, microfiche, and similar articles..	Free		Free	";

[(b) MOTION PICTURE FILMS.—Subpart G of part 2 of schedule 7 is amended—

[(1) by striking out "724.05 and 724.10" in headnote 1 and inserting in lieu thereof "724.07 and 724.22",

[(2) by striking out headnote 2,

[(3) by striking out items 724.05 and 724.10, and the superior heading thereto, and inserting in lieu thereof the following:

[" 724.07	Motion-picture films in any form on which pictures, or sound and pictures, have been recorded, whether or not developed...........................	Free		Free	";

[(4) by striking out items 724.15 through 724.40 and inserting in lieu thereof the following new item:

[" 724.22	Sound recordings, combination sound and visual recordings, and magnetic recordings not provided for in the foregoing provisions of this subpart..............................	Free		Free	";

and

[(5) by striking out the rates of duty appearing in rate columns 1, LDDC, and 2 for item 724.12 and inserting "Free" in rate columns numbered 1 and 2.

[(c) PATTERNS MODELS, ETC.—Part 7 of schedule 8 is amended—

[(1) by striking out headnote 1 and redesignating headnote 2 as headnote 1,

[(2) by striking out item 870.30, and

[(3) by inserting, in numerical sequence, the following new item:

["	870.35	Patterns, models (except toy models) and wall charts of an educational, scientific or cultural character, mock-up or visualizations of abstract concepts such as molecular structures or mathematical formulae; materials for programed instruction; and kits containing printed materials and audio materials and visual materials or any combination of two or more of the foregoing	Free	Free	";

[SEC. 4. TOOLS FOR SCIENTIFIC INSTRUMENTS OR APPARATUS.

[Part 4 of schedule 8 is amended by adding in numerical sequence, the following new item:

["	851.67	Tools specially designed to be used for the maintenance, checking, gauging or repair of instruments or apparatus admitted under item 851.60	Free	Free	";

[SEC. 5. ARTICLES FOR THE BLIND OR OTHER HANDICAPPED PERSONS.

[(a) Elimination of Duty.—Subpart D of part 2 of schedule 8 is amended by striking out items 825.00, 826.10, and 826.20.

[(b) Specially Designed Articles.—Part 7 of schedule 8 is amended—

[(1) by inserting, in numerical sequence, the following new items:

["		Articles specially designed or adapted for the use or benefit of the blind or other physically or mentally handicapped persons:			
		Articles for the blind:			
	870.50	Books, music, and pamphlets, in raised print, used exclusively by or for them	Free	Free	
	870.55	Braille tablets, cubarithms, and special apparatus, machines, presses, and types for their use or benefit exclusively	Free	Free	
	870.60	Other	Free	Free	";

and

[(2) by adding the following new headnote:

["2. For the purposes of items 870.50, 870.55, and 870.60—

["(a) The term 'physically or mentally handicapped persons' includes any person suffering from a permanent or chronic physical or mental impairment which substantially limits one or more major life activities, such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

["(b) These items do not cover—

["(i) articles for acute or transient disability;

["(ii) spectacles, dentures, and cosmetic articles for individuals not substantially disabled;

["(iii) therapeutic and diagnostic articles; or

["(iv) medicine or drugs.".

[(c) Statistical Information.—The Secretary of the Treasury, in conjunction with the Secretary of Commerce, shall take such actions as are necessary to obtain adequate statistical information with respect to articles to which the amendments made by this section apply.

[SEC. 6. AUTHORITY TO LIMIT CERTAIN DUTY-FREE TREATMENT ACCORDED UNDER THIS ACT.

[(a) Authority To Limit.—

[(1) In general.—In addition to any authority under section 201 of the Trade Act of 1974 (19 U.S.C. 2251), the President may proclaim changes in the Tariff Schedules of the United States (19 U.S.C. 1202) to narrow the scope of, or place conditions upon, the duty-free treatment accorded under section 164, section 165, or section 167(b) (insofar as section 167(b) relates to temporary duty-free treatment of articles covered by sections 164 and 165) with respect to any type of article the duty-free treatment of which—

[(A) has significant adverse impact on a domestic industry (or portion thereof) manufacturing or producing a like or directly competitive article, and

[(B) is not provided for in the Florence Agreement or the Nairobi Protocol.

[(2) Rates which are to take effect if duty-free treatment eliminated.—If the President eliminates any duty-free treatment under paragraph (1), the rate of duty thereafter applicable to any article which is—

[(A) affected by such action, and

[(B) imported from any source,

shall be the rate proclaimed by the President as the rate applicable to such article from such source (determined without regard to this subtitle).

[(b) Restoration of Treatment.—If the President determines that any duty-free treatment which is no longer in effect because of action taken under subsection (a) could be restored in whole or in part without a resumption of significant adverse impact on a domestic industry or portion thereof, the President may proclaim changes to the Appendix to the Tariff Schedules of the United States to resume such duty-free treatment.

[(c) Opportunity To Present Views.—Before taking an action authorized by subsection (a) or (b), the President shall afford an opportunity for interested Government agencies and private persons to present their views concerning the proposed action.

[SEC. 7. EFFECTIVE DATE; TEMPORARY DUTY-FREE TREATMENT.

[(a) In General.—The amendments made by sections 162, 163, 164, and 165 shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the date which the President proclaims as the date on which he ratifies the Nairobi Protocol to the Florence Agreement on the Importation of Educational, Scientific, and Cultural Materials.

[(b) Temporary Duty-Free Treatment.—

[(1) Articles for the blind or other handicapped persons.—Subject to the provisions of paragraph (3) and section 166, the President shall proclaim changes to the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) to implement the provisions of section 165 with respect to articles entered, or withdrawn from warehouse for consumption, during the two and one-half-year period beginning on the thirtieth day following the date of the enactment of this subtitle.

[(2) OTHER ARTICLES.—Subject to the provisions of paragraph (3) and section 166, the President, if he deems such action to be in the interest of the United States, may proclaim further changes to the Appendix to the Tariff Schedules of the United States to implement any provision of section 162, 163, or 164 with respect to articles entered, or withdrawn from warehouse for consumption, during any period beginning on or after the thirtieth day following the date of the enactment of this subtitle and ending not later than two and one-half years after such beginning date.

[(3) TIME PROVISIONS CEASE TO HAVE EFFECT.—If any temporary duty-free treatment accorded under paragraph (1) or (2) has not yet expired, such treatment shall cease to be effective on and after the date proclaimed by the President pursuant to subsection (a).]

INTERNATIONAL COFFEE AGREEMENT ACT OF 1980, AS AMENDED

IMPORTATION OF COFFEE UNDER INTERNATIONAL COFFEE AGREEMENT 1976; PRESIDENTIAL POWERS AND DUTIES

SEC. 2. On and after the entry into force of the International Coffee Agreement, 1983, and before October 1, [1986] *1989*, the President is authorized, in order to carry out and enforce the provisions of that agreement—

(1) to regulate the entry of coffee for consumption, or withdrawal of coffee from warehouse for consumption, or any other form of entry or withdrawal of coffee such as for transportation or exportation, including whenever quotas are in effect pursuant to the agreement, (A) the limitation of entry, or withdrawal from warehouse, of coffee imported from countries which are not members of the International Coffee Organization, and (B) the prohibition of entry of any shipment from any member of the International Coffee Organization of coffee which is not accompanied either by a valid certificate of origin, a valid certificate of reexport, a valid certificate of reshipment, or a valid certificate of transit, issued by a qualified agency in such form as required under the agreement;

* * * * * * *

INTERNAL REVENUE CODE OF 1986

* * * * * * *

SEC. 7652. SHIPMENTS TO THE UNITED STATES.

(a) * * *

* * * * * * *

(e) SHIPMENTS OF RUM TO THE UNITED STATES.—

* * * * * * *

(3) RUM DEFINED.—For purposes of this subsection, the term "rum" means any article classified under [item 169.13 or 169.14 of the Tariff Schedules of the United States] *subheading 2208.40.00 of the Harmonized Tariff Schedule of the United States* (19 U.S.C. 1202).

* * * * * * *

SEC. 9504. AQUATIC RESOURCES TRUST FUND.

(a) * * *

* * * * * * *

(b) SPORT FISH RESTORATION ACCOUNT.—

* * * * * * *

(1) TRANSFER OF CERTAIN TAXES TO ACCOUNT.—There is hereby appropriated to the Sport Fish Restoration Account amounts equivalent to the following amounts received in the Treasury on or after October 1, 1984—

* * * * * * *

(B) the import duties imposed on fishing tackle under [subpart B of part 5 of schedule 7 of the Tariff Schedules of the United States] *heading 9507 of the Harmonized Tariff Schedule of the United States* (19 U.S.C. 1202) and on yachts and pleasure craft under [subpart D of part 6 of schedule 6 of such Schedules] *chapter 89 of the Harmonized Tariff Schedule of the United States.*

* * * * * * *

MEAT IMPORT ACT OF 1979

* * * * * * *

SEC. 2. (a) This section may be cited as the "Meat Import Act of 1979".

(b) For purposes of this section—

(1) The term "entered" means entered, or withdrawn from warehouse, for consumption in the customs territory of the United States.

(2) The term "meat articles" means the articles provided for in the [Tariff Schedules of the United States] *Harmonized Tariff Schedule of the United States* under (19 U.S.C. 1202)—

(A) [item 106.10] *subheadings 0201.10.00, 0201.20.60, 0201.30.60, 0202.10.00, 0202.20.60 and 0202.30.60* (relating to fresh, chilled, or frozen [cattle] *bovine* meat);

(B) [items 106.22 and 106.25] *subheadings 0204.50.00, 0204.21.00, 0204.22.40, 0204.23.40, 0204.41.00, 0204.42.40, and 0204.43.40* (relating to fresh, chilled, or frozen meat of goats and sheep (except lambs)); and

[(C) items 107.55 and 107.62 (relating to prepared and preserved beef and veal (except sausage)), if the articles are prepared, whether fresh, chilled, or frozen, but not otherwise preserved.]

(C) subheadings 0201.20.40, 0201.30.40, 0202.20.40, and 0202.30.40 (relating to processed meat of beef or veal other than high quality beef cuts).

* * * * * * *

(c) The aggregate quantity of meat articles which may be entered in any calendar year after 1979 may not exceed 1,204,600,000 pounds; except that this aggregate quantity shall be—

* * * * * * *

(2) adjusted further under subsection (d).

For purposes of paragraph (1), the estimated annual domestic commercial production of meat articles for any calendar year does not include the carcass weight of live cattle specified in items [100.40, 100.43, 100.45, 100.53, and 100.55 of such Schedules] *subheadings 0102.90.20 and 0102.90.40 of the Harmonized Tariff Schedule of the United States*] entered during such year.

* * * * * * *

(f)(1) If the aggregate quantity estimated before any calendar quarter by the Secretary under subsection (e)(2) is 110 percent or more of the aggregate quantity estimated by him under subsection (e)(1), and if there is no limitation in effect under this section for such calendar year with respect to meat articles, the President shall by proclamation limit the total quantity of meat articles which may be entered during such calendar year to the aggregate quantity estimated for such calendar year by the Secretary under subsection (e)(1); except that no limitation imposed under this paragraph for any calendar year may be less than 1,250,000,000 pounds. The President shall include in the articles subject to any limit proclaimed under this paragraph any article of meat provided for in item [107.61 of the Tariff Schedules of the United States] *subheadings 0201.20, 0201.30.20, 0202.20.20, and 0202.30.20 of the Harmonized Tariff Schedule of the United States* (relating to the high-quality of beef specially processed into fancy cuts).

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OMNIBUS BUDGET RECONCILIATION ACT OF 1985

SEC. 13031. FEES FOR CERTAIN CUSTOMS SERVICES.

(a) SCHEDULE OF FEES.—

* * * * * * *

(9) For the processing of any merchandise (other than an article that is—

(A) provided for under any item in [schedule 8 of the Tariff Schedules of the United States except item 806.30 or 807.00], *chapter 98 of the Harmonized Tariff Schedule of the United States, except subheading 9802.00.60 or 9802.00.80,*

(B) a product of an insular possession of the United States, or

(C) a product of any country listed in [General Headnote 3(e) (vi) or (vii)] *general note 3(c)(v)* of such [Schedules] *Schedule.*

* * * * * * *

(b) Limitations on fees—

* * * * * * *

(8)(A) The fee charged under subsection (a) (9) or (10) of this section with respect to the processing of merchandise shall—

* * * * * * *

(iii) in the case of merchandise classified under [item 806.30] *subparagraph 9802.00.60* of the Tariff Schedules of the United States, be applied to the value of the foreign repairs or alterations to the merchandise; and

(iv) in the case of merchandise classified under [item 807.00] *subparagraph 9802.00.80* of such Schedules, be applied to the full value of the merchandise, less the cost or value of the component United States product.

With respect to merchandise that is classified under item [806.30 or 807.00] *subparagraph 9802.00.60 or 9802.00.80* of such Schedules and is duty-free, the Secretary may collect the fee charged on the processing of the merchandise under subsection (a) (9) or (10) of this section on the basis of aggregate data derived from financial and manufacturing reports used by the importer in the normal course of business, rather than on the basis of entry-by-entry accounting.

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(c) DEFINITIONS.—FOR PURPOSES OF THIS SECTION—

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(3) The term "customs territory of the United States" has the meaning given to such term by [headnote 2 of the General Headnotes and Rules of Interpretation of the Tariff Schedules of the United States] *general note 2 of the Harmonized Tariff Schedule of the United States.*

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TAX REFORM ACT OF 1986

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SEC. 423. ETHYL ALCOHOL AND MIXTURES THEREOF FOR FUEL USE.

(a) * * *

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(b) EXCEPTION.—

(1) Subject to the limitation in paragraph (2), subsection (a) shall not apply to ethyl alcohol that is imported into the United States during calendar years 1987 [and 1988], *1988, and 1989* and produced in—

(A) an azeotropic distillation facility located in [an insular possession of the United States or] a beneficiary country, if that facility was established before, and in operation on, [January 1, 1986, or] *July 1, 1987,*

(B) an azeotropic distillation facility—

(i) * * *

* * * * * * *

(ii) substantially all of the equipment and components of which were, on or before Janaury 1, 1986—

* * * * * * *

(II) ready for shipment to, and installation in, a beneficiary country, *or an insular possession of the United States,* and

(iii) which—

(I) has on the date of enactment of this Act, or

(II) will have at the time such facility is placed in service (based on estimates made before the date of enactment of this Act),

a stated capacity to produce not more than 42,000,000 gallons of such product per year[.], *or*

(C) a distillation facility operated by a corporation which, before the date of enactment of the Omnibus Trade Act of 1987—

(i) has completed engineering and design of a full-scale fermentation facility in the United States Virgin Islands, and

(ii) has obtained authorization from authorities of the United States Virgin Islands to operate a full-scale fermentation facility.

(2) The exception provided under paragraph (1) shall cease to apply during each of calendar years 1987 and 1988 to ethyl alcohol produced in a facility described in subparagraph (A) [or (B)], *(B), or (C)* of paragraph (1) after 20,000,000 gallons of ethyl alcohol produced in that facility are entered into the United States during that year.

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UNITED STATES CODE

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TITLE 7—AGRICULTURE

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§ 511r. Imported tobacco

(a) INSPECTION FOR GRADE AND QUALITY; EXCEPTION.—Notwithstanding any other provision of law—

(1) All tobacco offered for importation into the United States, except tobacco described in paragraph (2), shall be inspected, insofar as practicable, for grade and quality as tobacco marketed through a warehouse in the United States is inspected for grade and quality.

(2) Cigar tobacco and oriental tobacco (both as provided for in [Schedule 1, part 13, Tariff Schedules of the United States] *chapter 24 of the Harmonized Tariff Schedule of the United States* offered for importation into the United States shall be accompanied by a certification by the importer, in such form as the Secretary of Agriculture may prescribe, stating the kind and type of such tobacco, and, in the case of cigar tobacco, that such tobacco will be used solely in the manufacture or production of cigars.

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§ 1444. Cotton price support levels

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(f) PRODUCTION INCENTIVES, LOAN RATES, TARGET PRICES, AND SET-ASIDE PROGRAM FOR 1978 THROUGH 1981 CROPS.—

(1) * * *

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(3) Notwithstanding any other provision of law, any upland cotton described in [items 955.01 through 955.03 of the Appendix to the Tariff Schedules of the United States] *subheadings 9904.30.10 through 9904.30.30 of chapter 99 of the Harmonized Tariff Schedule of the United States* (19 U.S.C. 1202) imported into the United States during the period of time when a special quota established under this subsection is in effect shall be deemed to be an import under such special quota until the special quota is filled and any such cotton shall be free of duty.

§ 1783. Payments utilized as price supports

If payments are utilized as a means of price support, the payments shall be such as the Secretary of Agriculture determines to be sufficient, when added to the national average price received by producers, to give producers a national average return for the commodity equal to the support price level therefor: *Provided,* That the total of all such payments made under this Act shall not at any time exceed an amount equal to 70 per centum of the accumulated totals, as of the same date, of the gross receipts from duties collected on and after January 1, 1953, on [all articles subject to duty under schedule 11 of the Tariff Act of 1930, as amended] *wool or fine animal hair, and articles thereof, as provided for in the Harmonized Tariff Schedule of the United States.* The payments shall be made upon wool and mohair marketed by the producers thereof, but any wool or mohair produced prior to January 1, 1955, shall not be the subject of payments. The payments shall be at such rates for the marketing year or periods thereof as the Secretary determines will give producers the support price level as herein provided. Payments to any producer need not be made if the Secretary determines that the amount of the payment to the producer or all producers is too small to justify the cost of making such payments. The Secretary may make the payment to producers through the marketing agency to or through whom the producer marketed his wool or mohair: *Provided,* That such marketing agency agrees to receive and promptly distribute the payments on behalf of such producers. In case any person who is entitled to any such payment dies, becomes incompetent, or disappears before receiving such payment, or is succeeded by another who renders or completes the required performance, the payment shall, without regard to any other provisions of law, be made as the Secretary may determine to be fair and reasonable in all the circumstances and provided by regulation.

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§ 1784. Reimbursement to Commodity Credit Corporation

For the purpose of reimbursing the Commodity Credit Corporation for any expenditures made by it in connection with payments to producers under this chapter, there is appropriated for each fiscal year beginning with the fiscal year ending June 30, 1956, an amount equal to the total of expenditures made by the Corporation during the preceding fiscal year and to any amounts expended in prior fiscal years not previously reimbursed; *Provided, however,* That such amounts appropriated for any fiscal year shall not exceed 70 per centum of the gross receipts from duties collected during the period January 1 to December 31, both inclusive, preceding the beginning of each such fiscal year on [all articles subject to duty under schedule 11 of the Tariff Act of 1930, as amended] *wool or fine animal hair, and articles thereof, as provided for in the Harmonized Tariff Schedule of the United States.* For the purposes of the appraisal under sections 713a-4 and 713a-5 of Title 15, the Commodity Credit Corporation shall establish on its books an account receivable in an amount equal to any amount expended by Commodity Credit Corporation in connection with payments pursuant to this chapter which has not been reimbursed from appropriations made hereunder.

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TITLE 10—ARMED FORCES

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§ 374. Assistance by Department of Defense personnel

(a) Subject to subsection (b), the Secretary of Defense, upon request from the head of an agency with jurisdiction to enforce—

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(3) a law relating to the arrival or departure of merchandise (as defined in section 401 of the Tariff Act of 1930 (19 U.S.C. 1401)) into or out of the customs territory of the United States (as defined in [general headnote 2 of the Tariff Schedules of the United States] *general note 2 of the Harmonized Tariff Schedule of the United States* (19 U.S.C. 1202)) or any other territory or possession of the United States.

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TITLE 13—CENSUS

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§ 301. Collection and publication

(a) * * *

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(b) The Secretary shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, on quarterly and cumulative bases, statistics on United States imports for consumption and United States exports by country and by product. Statistics on United States imports shall be submitted in accordance with the [Tariff Schedules of the United States Annotated and general statistical headnote 1 thereof] *Harmonized Tariff Schedule of the United States Annotated for Statistical Reporting Purposes and general statistical note 1 thereof,* in detail as follows:

* * * * * * *

(e) There shall be reported, on monthly and cumulative bases, for each [item in the Tariff Schedules of the United States Annotated] *heading or subheading in the Harmonized Tariff Schedule of the United States Annotated for Statistical Reporting Purposes,* the United States port of entry value (as determined under subsection (b)(6)). There shall be reported, on monthly and cumulative bases, the balance of international trade for the United States reflecting (1) the aggregate value of all United States imports as reported in accordance with the first sentence of this subsection, and

(2) the aggregate value of all United States exports. [The values and balance of trade required to be reported by this subsection shall be released no later than 48 hours before the release of any other government statistics concerning values of United States imports or United States balance of trade, or statistics from which such values or balance may be derived.] *The information required to be reported under this subsection shall be reported in a form that is adjusted for economic inflation or deflation (on a constant dollar basis consistent with the reporting of the National Income and Product Accounts), and in a form that is not so adjusted.*

(f) On or before January 1, 1981, and as often thereafter as may be necessary to reflect significant changes in rates, there shall be reported for each [item of the Tariff Schedules of the United States Annotated] *heading or subheading in the Harmonized Tariff Schedule of the United States Annotated for Statistical Reporting Purposes,* the ad valorem or ad valorem equivalent rate of duty which would have been required to be imposed on dutiable imports [under that item] *under that heading or subheading* if the United States customs values of such imports were based on the United States port of entry value (as reported in accordance with the first sentence of subsection (e)) in order to collect the same amount of duties on imports [under that item] *under that heading or subheading* as are currently collected.

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TITLE 15—COMMERCE AND TRADE

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§ 1274. Remedies respecting banned hazardous substances

(a) NOTICE TO PROTECT PUBLIC; FORM AND CONTENTS.— * * *

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(b) ORDER OF COMMISSION; REPAIR, REPLACEMENT, OR REFUND.—If any article or substance sold in commerce is defined as a banned hazardous substance (whether or not it was such at the time of its sale) and the Commission determines (after affording interested persons, including consumers and consumer organizations, an opportunity for a hearing) that action under this subsection is in the public interest, the Consumer Product Safety Commission may order the manufacturer, distributor, or dealer to take whichever of the following actions the person to whom the order is directed elects:

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An order under this subsection may also require the person to whom it applies to submit a plan, satisfactory to the Commission, for taking the action which such person elected to take. The Commission shall specify in the order the persons to whom refunds must be made if the person to whom the order is directed elects to take the action described in paragraph (3). If an order under this subsection is directed to more than one person, the Commission shall specify which person has the election under this subsection.

An order under this subsection may prohibit the person to whom it applies from manufacturing for sale, offering for sale, distributing in commerce, or importing into the customs territory of the United States (as defined in [general headnote 2 to the Tariff Schedules of the United States] *general note 2 of the Harmonized Tariff Schedule of the United States*), or from doing any combination of such actions, with respect to the article or substance with respect to which the order was issued.

(c) DISCRETIONARY REMEDIAL ACTIVITIES AVAILABLE TO COMMISSION; ORDERS; CONTENTS.—

* * * * * * *

(2) If the Commission determines (after affording interested persons, including consumers and consumer organizations, an opportunity for a hearing in accordance with subsection (e) of this section) that any toy or other article intended for use by children that is not a banned hazardous substance contains a defect which creates a substantial risk of injury to children (because of the pattern of defect, the number of defective toys or such articles distributed in commerce, the severity of the risk, or otherwise) and that action under this paragraph is in the public interest, the Commission may order the manufacturer, distributor, or dealer to take whichever of the following actions the person to whom the order is directed elects:

* * * * * * *

An order under this paragraph may also require the person to whom it applies to submit a plan, satisfactory to the Commission, for taking the action which such person has elected to take. The Commission shall specify in the order the person to whom refunds must be made if the person to whom the order is directed elects to take the action described in subparagraph (C). If an order under this paragraph is directed to more than one person, the Commission shall specify which person has the election under this paragraph. An order under this paragraph may prohibit the person to whom it applies from manufacturing for sale, offering for sale, distributing in commerce, or importing into the customs territory of the United States (as defined in [general headnote 2 to the Tariff Schedules of the United States] *general note 2 of the Harmonized Tariff Schedule of the United States*), or from doing any combination of such actions, with respect to the toy or article with respect to which the order was issued.

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§ 2064. Substantial product hazards

(a) DEFINITION.—For purposes of this section, the term "substantial product hazard" means—

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(d) REPAIR; REPLACEMENT; REFUNDS; ACTION PLAN.—If the Commission determines (after affording interested parties, including consumers and consumer organizations, an opportunity for a hearing in accordance with subsection (f) of this section) that a product distributed in commerce presents a substantial product hazard and that action under this subsection is in the public interest, it may order the manufacturer or any distributor or retailer of such product to take whichever of the following actions the person to whom the order is directed elects:

* * * * * * *

An order under this subsection may also require the person to whom it applies to submit a plan, satisfactory to the Commission, for taking action under whichever of the preceding paragraphs of this subsection under which such person has elected to act. The Commission shall specify in the order the persons to whom refunds must be made if the person to whom the order is directed elects to take the action described in paragraph (3). If an order under this subsection is directed to more than one person, the Commission shall specify which person has the election under this subsection. An order under this subsection may prohibit the person to whom it applies from manufacturing for sale, offering for sale, distributing in commerce, or importing into the customs territory of the United States (as defined in [general headnote 2 of the Tariff Schedule of the United States] *general note 2 of the Harmonized Tariff Schedule of the United States)*, or from doing any combination of such actions, the product with respect to which the order was issued.

* * * * * * *

§ 2066. Imported products

(a) Refusal of Admission.—Any consumer product offered for importation into the customs territory of the United States (as defined in [general headnote 2 of the Tariff Schedules of the United States] *general note 2 of the Harmonized Tariff Schedule of the United States)*, shall be refused admission into such customs territory if such product—

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§ 2602. Definitions

As used in this chapter:

(1) * * *

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(7) The term "manufacture" means to import into the customs territory of the United States (as defined in [general headnote 2 of the Tariff Schedules of the United States] *general note 2 of the Harmonized Tariff Schedule of the United States)*, produce, or manufacture.

* * * * * * *

§ 2612. Entry into customs territory of the United States

(a) In General.—(1) The Secretary of the Treasury shall refuse entry into the customs territory of the United States (as defined in [general headnote 2 to the Tariff Schedules of the United States] *general note 2 of the Harmonized Tariff Schedule of the United*

States) of any chemical substance, mixture, or article containing a chemical substance or mixture offered for such entry if—

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TITLE 16—CONSERVATION

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§ 1606a. Reforestation Trust Fund

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(b) TRANSFER OF CERTAIN SCHEDULE 2 TARIFF RECEIPTS TO TRUST FUND; FISCAL YEAR LIMITATION; QUARTERLY TRANSFERS; ADJUSTMENT OF ESTIMATES.—[(1) Subject to the limitation in paragraph (2), the Secretary of the Treasury shall transfer to the Trust Fund an amount equal to the sum of the tariffs received in the Treasury after September 30, 1979, under subparts A and B of part 1 of schedule 2 of the Tariff Schedules of the United States (19 U.S.C. (1202) and under part 3 of such schedule.]

(b)(1) Subject to the limitation in paragraph (2), the Secretary of the Treasury shall transfer to the Trust Fund an amount equal to the sum of the tariffs received in the Treasury after January 1, 1989, under headings 4401 through 4412 and subheadings 4418.50.00, 4418.90.20, 4420.10.00, 4420.90.80, 4421.90.10 through 4421.90.20, and 4421.90.70 of chapter 44, subheadings 6808.00.00 and 6809.11.00 of chapter 68 and subheading 9614.10.00 of chapter 96 of the Harmonized Tariff Schedule of the United States.

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§ 3912. Transfers to migratory bird conservation fund

Notwithstanding any other provision of law, an amount equal to the amount of all import duties collected on arms and ammunition, as specified in [subpart A of part 5 of schedule 7 of the Tariff Schedules of the United States] *chapter 93 of the Harmonized Tariff Schedule of the United States,* shall, beginning with the next fiscal year quarter after November 10, 1986, be paid quarterly into the migratory bird conservation fund established under section 718d of this title.

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TITLE 21—FOOD AND DRUGS

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§ 41. Importation of tea inferior to standard

It shall be unlawful for any person or persons or corporation to import or bring into the United States any merchandise as tea which is inferior in purity, quality, and fitness for consumption to the standards provided in section 43 of this title, and the importation of all such merchandise is prohibited, except as provided in the [Tariff Schedules of the United States] *Harmonized Tariff Schedule of the United States.*

* * * * * * *

§ 951. Definitions

(a) For purposes of this subchapter—

(1) The term "import" means, with respect to any article, any bringing in or introduction of such article into any area (whether or not such bringing in or introduction constitutes an importation within the meaning of the tariff laws of the United States).

(2) The term "customs territory of the United States" has the meaning assigned to such term by [general headnote 2 to the Tariff Schedules of the United States] *general note 2 of the Harmonized Tariff Schedule of the United States.*

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TITLE 22—FOREIGN RELATIONS AND INTERCOURSE

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§ 5059. Prohibition on importation of uranium, coal, and textiles from South Africa

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(b) "TEXTILES" DEFINED.—For purposes of this section, the term "textiles" does not not include any article provided for in [item 812.10 or 813.10 of the Tariff Schedules of the United States] *subheading 9804.00.20 or 9804.00.45 of the Harmonized Tariff Schedule of the United States.*

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TITLE 28—JUDICIARY AND JUDICIAL PROCEDURE

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§ 1295. Jurisdiction of the United States Court of Appeals for the Federal Circuit

(a) The United States Court of Appeals for the Federal Circuit shall have exclusive jurisdiction—

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(7) to review, by appeal on questions of law only, findings of the Secretary of Commerce under [headnote 6 to schedule 8, part 4, of the Tariff Schedules of the United States] *U.S. note 6 to subchapter X of chapter 98 of the Harmonized Tariff*

Schedule of the United States (relating to importation of instrumets or apparatus);

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TITLE 50—WAR AND NATIONAL DEFENSE

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§ 98h-4. Importation of strategic and critical materials

Notwithstanding any other provisions of law, on and after January 1, 1972, the President may not prohibit or regulate the importation into the United States of any material determined to be strategic and critical pursuant to the provisions of this subchapter, if such material is the product of any foreign country or area not listed as a Communist-dominated country or area in **[**general headnote 3(d) of the Tariff Schedules of the United States**]** *general note 3(b) of the Harmonized Tariff Schedule of the United States* (19 U.S.C 1202, for so long as the importation into the United States of material of that kind which is the product of such Communist-dominated countries or areas is not prohibited by any provision of law.

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